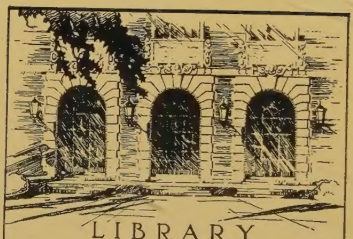

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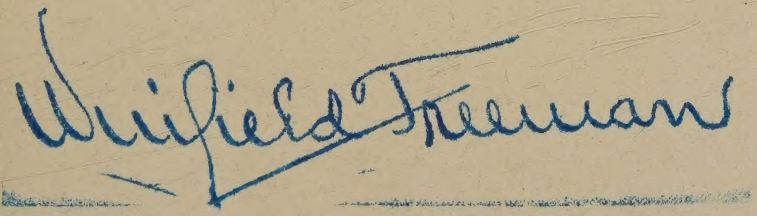

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KANSAS
CONSTITUTIONAL CONVENTION

A REPRINT OF THE PROCEEDINGS AND DEBATES OF THE CONVENTION WHICH FRAMED THE CONSTITUTION OF KANSAS AT WYANDOTTE IN JULY, 1859.

ALSO

THE CONSTITUTION ANNOTATED TO DATE,
HISTORICAL SKETCHES, ETC.

By Authority of the State Legislature.

PRINTED BY
KANSAS STATE PRINTING PLANT
IMRI ZUMWALT, STATE PRINTER
TOPEKA
1920

8-778

Compiled, under the direction of State Librarians James L. King and Winfield Freeman, by Harry G. Larimer, bill-drafter and chief of legislative reference library.

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AUTHORITY FOR REPRINTING THE PROCEEDINGS OF THE WYANDOTTE CONSTITUTIONAL CONVENTION.

CHAPTER 317, LAWS OF 1919—SENATE JOINT RESOLUTION NO. 3.

RELATING to the reprinting, indexing, binding and distribution of the proceedings and debates of the Kansas Wyandot (Wyandotte) Constitutional Convention.

WHEREAS, There are but five or six copies of the proceedings and debates of the constitutional convention by which Kansas entered the sisterhood of states in existence; and

WHEREAS, There is but one of these copies in the state library and that one, on account of its rarity and value, must be kept locked in a vault; and

WHEREAS, These proceedings should be made accessible to the constantly increasing number of scholars, publicists, statesmen, historians, and jurists: now, therefore, be it

Resolved by the Legislature of the State of Kansas:

SECTION 1. That the state librarian is directed to prepare and furnish to the state printer an exact copy of such proceedings with footnotes calling attention to typographical mistakes occurring in the text, with appendixes consisting of: The constitution as originally adopted; the constitution as annotated to date; a historical review, prepared by the librarian, of each amendment submitted to the constitution to date, with a systematic, scientific and complete table of contents and index thereto, together with such instructions as he may see fit to make as to the type, arrangement, size and binding of the reprinted volume.

SEC. 2. That the state printer shall print, bind and furnish to the state librarian, at as early a date as possible, fifteen hundred copies of such reprint substantially and enduringly bound in sheep or buckram, or part in sheep, and part in buckram, as the state librarian may determine.

SEC. 3. That upon the receipt of such reprinted volumes the state librarian shall distribute the same as follows: One copy to every member of each house of the state legislature; one copy to each department of state having offices in the state house; one copy to every member of the supreme court; one copy each to the clerk and report (reporter) of the supreme court; five copies to the attorney-general's office; five copies to the State Historical Society; one copy to every district court in the state; one copy to every board of county commissioners in the state; one copy to every public library in the state; one copy to every state institution; one copy to every law school in the state; one copy to every state library in the United States; two copies to the Department of Justice of the United States; two copies to the Library of Congress of the United States; one copy each to the judge and attorney of the federal judicial district of Kansas. The librarian shall reserve one hundred copies for exchange purposes with legislative reference and bill-drafting departments, or other public agencies of other states of the Union; shall place ten copies in the permanent files of the library; and shall reserve the remainder to be sold by him to persons applying therefor, at $2 per volume, plus transportation charges.

SEC. 4. That this resolution shall take effect and be in force from and after its publication in the official state paper.

Approved March 7, 1919.
Published in official state paper March 13, 1919.

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FOREWORD.

Under my supervision, the State Library staff compiled this volume in obedience to the authority conferred by act of the Legislature at its regular session in 1919.

To the proceedings of the Wyandotte Constitutional Convention, reprinted on the convention's order by its official reporter from the *Commercial Gazette*, I have thought it wise and helpful, because of the extended and, at times, acrimonious debate over the membership of the convention, to reproduce the territorial act authorizing its proceedings, and to add six appendixes.

"Appendix A," in five tables, is concerned with the amendments and convention proposals submitted subsequent to the adoption of the constitution, and shows: the year submitted; the section and article of the constitution to be amended; the number of the amended section as it appears in the General Statutes of 1915; a condensed statement of the subject-matter of the proposed amendment; the popular vote by which the proposition was adopted or rejected, and other special information concerning the amendment and its relation to other amendments and to the constitutional history of the state.

"Appendix B" reproduces the constitution with the amendments incorporated, annotated with the decisions of the Supreme Court to its adjournment in July, 1919. The annotations of the General Statutes of 1915 have been retained, followed by others upon decisions rendered since the publication of that compilation.

"Appendix C" consists of two articles dealing with the history of the convention that framed the constitution. The first article was written by Hon. B. F. Simpson, a member of the convention, and afterwards Commissioner of the Supreme Court, and the other, by Hon. John A. Martin, secretary of the convention, and twice governor of the state.

"Appendix D" treats of the sources of the constitution in two articles, one written by Rosa M. Perdue, formerly connected with the State University, and the other by Hon. Robert Stone, an ex-speaker of the Kansas House of Representatives.

"Appendix E" is a historical sketch of the first three attempts at constitution-making in the Territory of Kansas. These essays were named the Topeka, Leavenworth and Lecompton Constitutions, from the respective cities in which the conventions held their sessions. The sketch was the production of Hon. T. Dwight Thacher, afterward a state printer of Kansas.

"Appendix F" is a bibliography of the material accessible in the Kansas

State Library for a study of the state's constitution and of the men who hewed out and fitted together the timbers of our organic law.

The articles by Messrs. Simpson and Thacher, and by Miss Perdue are reprinted from the "Kansas Historical Collections" by the permission of the State Historical Society.

The excerpt from Mr. Stone's article is taken from Vol. 2, "Kansas and Kansans," and is republished here through the courtesy of the editor, Hon. William E. Connelley.

Governor Martin's contribution is found in a volume entitled "Addresses," printed by him for private circulation.

JAMES L. KING,
State Librarian.

TOPEKA, September 1, 1919.

The compilation of this volume was finished and the first signatures were in print at the date of the death of Mr. James L. King, since which time the work has been reëxamined and additional references to authorities made.

WINFIELD FREEMAN,
State Librarian.

TOPEKA, May 1, 1920.

THE HISTORIC PEACE ACT AND THE CONVENTION ACT.

The fifth session of the Kansas Territorial Assembly, convened in Lecompton, and concluded at Lawrence, during the months of January and February, 1859, enacted "the Peace Act," unique in the annals of American statutory law, and also the statute which resulted in the formation and adoption of the state constitution and the organization of the state government thereunder. Although not printed in the *Gazette,* the editor presents the texts of both acts as explanatory of the long-continued debate on the membership of the convention, and showing the source of the "Schedule" attached to the constitution. (See discussions on pages 32-33, 40-52, 53-54, 57-66, and the "Schedule," pages 200-203, 482-497, 507-508.)

THE PEACE ACT.

SECTION 1. That no criminal offense heretofore committed in the counties of Lykins, Linn, Bourbon, McGee, Allen and Anderson, growing out of any political differences of opinion, or arising, in any way, from such political differences of opinion, shall be subject to any prosecution, on any complaint or indictment, in any court whatsoever in this Territory.

SEC. 2. That all criminal actions now commenced, growing out of political differences of opinion, shall be dismissed.

CONSTITUTIONAL CONVENTION ACT.

CHAPTER XXXI., LAWS 1859 (TERRITORIAL).

AN ACT providing for the formation of a Constitution and State Government for the State of Kansas.

Be it Enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That an election shall be holden in the several voting precincts in the Territory of Kansas, on the fourth Monday of March, A. D. 1859, at which the qualified electors of the said Territory shall determine for or against the formation of a Constitution and State Government for the State of Kansas, in the following manner, to wit: All legal voters under the provisions of this act, who may be in favor of the formation of a Constitution and State Government, shall be entitled to vote a written or printed ballot, inscribed "For a Constitution"; and all legal voters as aforesaid, who may be opposed to the formation of a Constitution and State Government, shall be entitled to vote a written or printed ballot, inscribed "Against a Constitution."

SEC. 2. That if, upon counting the returns of said election, in the manner hereinafter prescribed, it shall be found that a majority of the legal voters of said Territory shall have voted "against" the formation of a Con-

stitution and State Government, the Governor of the Territory shall issue his proclamation in accordance with the facts, and that the remaining provisions of this act shall be inoperative and void; but if, upon counting the returns of said election, in the manner hereinafter prescribed, it shall be found that a majority of the legal voters of said Territory shall have voted "for" the formation of a Constitution and State Government, the Governor of the Territory shall issue his proclamation in accordance with the facts, and that the remaining provisions of this act shall remain in full force and effect.

SEC. 3. That an election shall be holden on the first Tuesday of June, A. D. 1859, in the several voting precincts in the Territory of Kansas, for delegates to a convention to frame a Constitution and State Government for the State of Kansas.

SEC. 4. That said convention shall be composed of fifty-two members, to be apportioned among the several districts of the Territory as follows, to wit: The county of Leavenworth shall constitute the first district, and shall elect ten delegates; the county of Atchison shall constitute the second district, and shall elect three delegates; the county of Doniphan shall constitute the third district, and shall elect five delegates; the county of Brown shall constitute the fourth district, and shall elect one delegate; the county of Nemaha shall constitute the fifth district, and shall elect one delegate; the counties of Marshall, Washington and Arappahoe shall constitute the sixth district, and elect one delegate; the county of Jefferson shall constitute the seventh district, and shall elect one delegate; the county of Calhoun shall constitute the eighth district, and shall elect one delegate; the county of Riley shall constitute the ninth district, and shall elect one delegate; the county of Pottawattamie shall constitute the tenth district, and shall elect one delegate; the county of Johnson shall constitute the eleventh district, and shall elect two delegates; the county of Douglas shall constitute the twelfth district, and shall elect seven delegates; the county of Shawnee shall constitute the thirteenth district, and shall elect three delegates; the counties of Richardson, Davis, Dickinson and Clay shall constitute the fourteenth district, and shall elect one delegate; the county of Lykins shall constitute the fifteenth district, and shall elect two delegates; the county of Franklin shall constitute the sixteenth district, and shall elect one delegate; the counties of Weller, Breckenridge and Wise shall constitute the seventeenth district, and shall elect two delegates; the county of Linn shall constitute the eighteenth district, and shall elect two delegates; the county of Anderson shall constitute the nineteenth district, and shall elect one delegate; the counties of Coffey and Woodson shall constitute the twentieth district, and shall elect two delegates; the counties of Madison, Butler, Hunter, Greenwood, Godfrey and Wilson shall constitute the twenty-first district, and shall elect one delegate; the counties of Bourbon, McGee and Dorn shall constitute the twenty-second district, and shall elect two delegates; the county of Allen shall constitute the twenty-third district, and shall elect one delegate.

SEC. 5. That the delegates, elected under the provisions of this act, shall assemble at Wyandott, on the first Tuesday of July, A. D. 1859, and shall proceed to frame a Constitution and provide for the organization of a State Government for the State of Kansas.

SEC. 6. That on the first Tuesday of October, A. D. 1859, the Constitution thus framed shall be submitted to a direct vote of the qualified electors of the Territory of Kansas, for their ratification or rejection, in such manner and form as the said convention may prescribe.

SEC. 7. That, in case the Constitution, thus framed and submitted, shall be ratified by a majority of the electors of said Territory, then an election shall be holden on the first Tuesday of December, A. D. 1859, at which State officers, members of the State Legislature, judges, and all other officers provided for under said Constitution, shall be elected.

SEC. 8. That it shall be the duty of said convention, in case said Constitution shall be ratified by a majority of the electors voting at the aforesaid election, to provide for its transmission to the Congress of the United States, asking, by memorial or otherwise, for the admission of Kansas into the Union, under said Constitution, as a sovereign and independent State.

SEC. 9. That, upon official information, having been by him received, of the admission of Kansas into the Union as a State, it shall be the duty of the Governor-elect under said Constitution to proclaim the same, and to convene the General Assembly of the State of Kansas, and do all things else necessary to the complete and active organization of the State Government.

SEC. 10. That all the elections provided for by this act shall be by ballot.

SEC. 11. That all white male citizens of the United States, and all those who shall have declared, on oath, their intention to become such, and all male Indians who have been made citizens of the United States, by treaty or otherwise, and who shall be over the age of twenty-one years, and who shall have been *bona fide* inhabitants of the Territory of Kansas, for the period of six months next preceding each of the respective elections provided for by this act, and who shall have been *bona fide* inhabitants of the county in which they may offer to vote for ten days next preceding each of the respective elections aforesaid, and none others, shall be entitled to vote at the several elections hereinbefore provided for: *Provided,* That no officer, soldier, seaman or marine, or other person in the army or navy of the United States, or attached to the troops in the service of the United States, shall be allowed to vote or hold office under the provisions of this act, by reason of being on service in this Territory.

SEC. 12. That any person, having the qualifications of an elector as aforesaid, shall be eligible to become a delegate to the convention provided for by this act.

SEC. 13. That the persons who may be judges of election in the several voting precincts of this Territory, at the time of the respective elections provided for in this act, shall be the judges of the several respective elections hereinbefore provided for.

SEC. 14. That the said judges of election, before entering upon the duties of their office, shall take an oath faithfully to discharge their duties as such. Said oath shall be administered to them by any person duly qualified by law to administer oaths; and, in case no person thus qualified shall be present at the time of opening said elections, then said judges are hereby authorized and required to administer such oath to each other. They shall appoint two clerks of election, who shall also be sworn, by said judges, faithfully to discharge their duties as such. In the event of any vacancy or vacancies occurring in the board of judges, the bystanders shall supply such vacancy or vacancies from their own number.

SEC. 15. That, at the several elections provided for in this act, the polls shall be opened between the hours of nine and ten o'clock A. M., and shall be kept open until and closed at sunset.

SEC. 16. That the tribunals transacting county business of the several counties, shall cause to be furnished to the several boards of judges in their

respective counties, two poll books for each election hereinbefore provided for, upon which the clerks of election shall inscribe the name of every person who may vote at the said elections.

SEC. 17. That, after the closing of the polls at each of the aforesaid elections, the judges of such election shall proceed to count the votes cast, and designate the persons or objects for which they were cast; and shall make two correct tally lists of the same.

SEC. 18. That each of the boards of judges shall hold in safe keeping one poll book and tally list, and the ballots cast at each respective election; and shall, within ten days after such election, inclusive, cause the other poll book and tally list to be transmitted, by the hands of a sworn officer, to the clerk of the tribunal transacting county business of the counties in which said elections were holden, or to which the county may be attached for municipal purposes.

SEC. 19. That the tribunals transacting county business shall assemble at the county seats of their respective counties, on the second Tuesday after each of said elections, and shall canvass the votes cast at the elections held in the several precincts in their respective counties, and of the counties attached for municipal purposes. They shall hold, in safe keeping, the poll books and tally lists of said elections, and shall, within ten days thereafter, transmit, by the hands of a sworn officer, to the governor of the Territory, a certified abstract of the same, showing the number of votes cast for each person or object voted for, at each of the several precincts in their respective counties, and at each of the several precincts in the counties attached for municipal purposes, separately.

SEC. 20. That the governor of the Territory shall issue his proclamation, not less than twenty days next preceding each respective election provided for in this act. Said proclamation shall contain an announcement of the several elections, the qualification of electors, the manner of conducting said elections, and of making the returns thereof as hereinbefore provided for, and shall publish such proclamation in one newspaper in each of the several counties of this Territory, in which a newspaper may be then published.

SEC. 21. That the governor of the Territory shall, on the fourth Tuesday after each of the said elections, issue his proclamation and cause the same to be published in not less than three of the most prominent newspapers of Kansas Territory, declaring the result of the said elections in the several precincts of the several counties of the Territory of Kansas; and he shall forthwith proceed to issue certificates of election to all persons (if any) thus elected.

SEC. 22. That in case of a tie vote between candidates for any of the offices provided for in this act, or in case of a vacancy by death, resignation or otherwise, the governor of the Territory shall issue his proclamation for a new election in the district in which such tie or vacancy may occur; said proclamation to be issued not less than ten days next preceding said election.

SEC. 23. That if any officer or person shall violate any of the provisions of this act, he shall be deemed guilty of a misdemeanor, and subject to a fine of not less than twenty nor more than five hundred dollars, or shall be imprisoned in the county jail, for a period not exceeding ten years, or both, at the discretion of the court; and it shall be the duty of the prosecuting attorneys of the several counties, to prosecute, in the name and behalf of the Territory, all violations of the provisions of this act, before any court having competent jurisdiction.

SEC. 24. That the members of said constitutional convention, and all necessary officers thereof, shall receive for their services, each, the sum of three dollars per day; and shall also receive three dollars for every twenty miles travel in going to and returning from said convention; said travel to be estimated by the nearest traveled route.

SEC. 25. That the sum of ten thousand dollars, or so much thereof as may be necessary to carry out the provisions of this act, be and the same is hereby appropriated out of any moneys in the treasury, not otherwise appropriated, to defray the necessary expenses incident to the formation of said Constitution and State Government.

SEC. 26. This act to take effect and be in force from and after its passage.

PROCEEDINGS AND DEBATES,

EMBRACING THE SECRETARY'S JOURNAL,

OF THE

KANSAS CONSTITUTIONAL CONVENTION,

CONVENED AT WYANDOT, JULY 5, 1859, UNDER THE ACT OF THE TERRITORIAL LEGISLATURE ENTITLED "AN ACT PROVIDING FOR THE FORMATION OF A STATE GOVERNMENT FOR THE STATE OF KANSAS." APPROVED FEBRUARY 11, 1859.

BY ARIEL E. DRAPIER, *Reporter.*

PRINTED BY ORDER OF THE CONVENTION, FROM THE COLUMNS OF
The Commercial Gazette.

WYANDOT, KANSAS:
S. D. MACDONALD, PRINTER TO THE CONVENTION.
1859.

MEMBERS OF THE CONSTITUTIONAL CONVENTION.

NAMES.	County.	P. O.	Where Born.	Age.	Avocation.
J. M. ARTHUR	Linn	Centerville	Indiana	42	Farmer.
J. LAMB	Linn	Mound City	Indiana	42	Mechanic.
CALEB MAY	Atchison	Pardee	Kentucky	44	Farmer.
S. A. KINGMAN	Brown	Hiawatha	Massachusetts	38	Lawyer.
J. J. INGALLS	Atchison	Sumner	Massachusetts	34	Lawyer.
J. P. GREER	Shawnee	Topeka	Ohio	38	Lawyer.
R. L. WILLIAMS	Douglas	Franklin	Kentucky	42	Merchant.
J. A. MIDDLETON	Marshall	Nottingham	Pennsylvania	25	Lawyer.
B. F. SIMPSON	Lykins	Paola	Ohio	23	Lawyer.
P. H. TOWNSEND	Douglas	Big Springs	New Hampshire	33	Lawyer.
H. D. PRESTON	Shawnee	Burlingame	New Hampshire	28	Farmer.
J. C. BURNETT	Bourbon	Mapleton	Vermont	34	Farmer.
W. R. GRIFFITH	Bourbon	Marmaton	Indiana	39	Farmer.
N. C. BLOOD	Douglas	Baldwin City	Vermont	42	Merchant.
T. S. WRIGHT	Nemaha	Granada	Pennsylvania	50	Lawyer.
G. H. LILLIE	Madison	Emporia	Ohio	35	Lawyer.
S. E. HOFFMAN	Woodson	Neosho	Pennsylvania	25	Lawyer.
A. CROCKER	Coffey	Burlington	Indiana	34	Farmer.
L. R. PALMER	Pottawatomie	Louisville	New York	40	Physician.
J. J. BLUNT	Anderson	Walker	Maine	33	Physician.
J. HANWAY	Franklin	Shermanville	England	49	Farmer.
W. HUTCHINSON	Douglas	Lawrence	Vermont	35	Farmer.
J. BLOOD	Douglas	Lawrence	Vermont	39	Merchant.
S. O. THACHER	Douglas	Lawrence	New York	28	Lawyer.
ED. STOKES	Douglas	Clinton	Pennsylvania	35	Manufacturer.
S. D. HOUSTON	Riley	Manhattan	Ohio	40	Farmer.
J. P. SLOUGH	Leavenworth	Leavenworth	Ohio	30	Lawyer.
W. MCCULLOUGH	Morris	Council Grove,	Scotland	44	Farmer.
C. B. MCCLELLAND	Jefferson	Oskaloosa	Ohio	30	Merchant.
J. W. FORMAN	Doniphan	Doniphan	Kentucky	40	Merchant.
J. STIARWALT	Doniphan	Palermo	Ohio	45	Farmer.
E. M. HUBBARD	Doniphan	Highland	Kentucky	30	Merchant.
P. S. PARKS	Leavenworth	Kickapoo	Indiana	26	Lawyer.
F. BROWN	Leavenworth	Leavenworth	Germany	33	Manufacturer.
S. HIPPLE	Leavenworth	Leavenworth	Pennsylvania	28	Land Agent.
S. T. STINSON	Leavenworth	Leavenworth	Maine	26	Lawyer.
WM. C. MCDOWELL	Leavenworth	Leavenworth	Ohio	31	Lawyer.
A. D. MCCUNE	Leavenworth	Leavenworth	Ohio	31	Farmer.
JOHN WRIGHT	Leavenworth	Leavenworth	Indiana	33	Farmer.
W. PERRY	Leavenworth	Leavenworth	Indiana	28	Lawyer.
R. C. FOSTER	Leavenworth	Delaware	Kentucky	24	Lawyer.
ROBT. GRAHAM	Atchison	Atchison	Ireland	55	Merchant.
J. T. BARTON	Johnson	Olathe	Virginia	28	Physician.
E. MOORE	Jackson	Holton	Ohio	38	Manufacturer.
B. WRIGLEY	Doniphan	Troy	Ohio	29	Lawyer.
W. P. DUTTON	Lykins	Stanton	New Hampshire	42	Farmer.
J. RITCHIE	Shawnee	Topeka	Ohio	41	Farmer.
E. G. ROSS	Waubonse	Glenross	Ohio	32	Printer.
J. H. SIGNOR	Allen	Humboldt	New York	25	Surveyor.
R. J. PORTER	Doniphan	Troy	Pennsylvania	28	Merchant.
J. M. WINCHELL	Osage	Superior	New York	35	Farmer.
J. T. BURRIS	Johnson	Olathe	Ohio	28	Lawyer.

PRESIDENT.....J. M. WINCHELL.

SECRETARY—J. A. MARTIN, of Atchison County, Post-office address, Atchison; born Pennsylvania; aged 21; Editor.

SERGEANT-AT-ARMS—G. F. WARREN, of Douglas County; Post-office address, Baldwin City; born Maine; Farmer.

CONVENTION PROCEEDINGS AND DEBATES.

[*I] *Tuesday, July 5, 1859.

In pursuance of law the Convention met for organization this day 12 o'clock, M., in their Hall in the new levee block in Wyandotte, in the Territory of Kansas.

Mr. Stinson advanced to the President's table, and reported the informal appointment of himself and other delegates to wait on his Excellency Governor Medary, and invite him to call the Convention to order; that they have performed that duty, and the Governor declining to attend on account of ill health, desired him to make his Excellency's thanks to the body for their kindness and consideration; and that it was the request of the Governor that he (Mr. Stinson) should call the Convention to order. He nominated Col. John P. Slough, of Leavenworth, to serve as President preliminary to the permanent organization.

Mr. Griffith nominated Col. J. Blood, of Douglas.

Mr. Blood was chosen by a rising vote; but it appearing that he was not in the Hall—

On motion of Mr. Thacher, Col. S. A. Kingman, of Brown county, was chosen to the preliminary presidency of the body, and he took the Chair.

TEMPORARY SECRETARY.

Mr. Slough nominated William Spencer to serve as temporary secretary.

Mr. Ritchie nominated John A. Martin, of Atchison.

The President declared Mr. Martin elected, upon a rising vote.

Mr. Stinson moved that the Chair appoint a Committee on Credentials, to consist of three members, to whom shall be referred the credentials of the delegates from Wyandotte county.

Mr. Slough opposed the motion as premature. The delegates should be called and the credentials submitted, before the creation of a Committee on Credentials.

The motion was rejected.

ROLL OF DELEGATES.

Mr. Slough. I now move that the Secretary *pro tem.* call the delegates by districts; and that delegates deliver their certificates of election at the table, as their names are called.

The motion was adopted, and accordingly the following delegates came forward and laid their certificates of election on the secretary's table:

From the County of Leavenworth, comprising the First District—Messrs. McDowell, Parks, Brown and Foster.

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* Figures and Roman numerals appearing in brackets and followed by stars (*) throughout the text of this book indicate the actual beginning of the pages corresponding to those numbers in the original edition of 1859.

From the County of Atchison, Second District—Messrs. Ingalls, Graham and May.

From the County of Doniphan, Third District—Messrs. Wrigley, Forman, Hubbard, Stiarwalt and Forman.

From the County of Brown, Fourth District—Mr. Kingman.

From the County of Nemaha, Fifth District—Mr. Thomas S. Wright.

From the County of Jefferson, Seventh District—Mr. C. B. McClelland.

From the County of Johnson, Eleventh District—Messrs. Barton and Burris.

From the County of Douglas, Twelfth District—Messrs. J. Blood, S. O. Thacher, N. C. Blood, W. Hutchinson, P. H. Townsend, Ed. Stokes, L. R. Williams.

From the County of Shawnee, Thirteenth District—Messrs. John Ritchie, Greer and Preston.

From the Counties of Waubonsa, Davis, Richardson, &c., Fourteenth District—Mr. E. G. Ross.

From the County of Lykins, Fifteenth District—Messrs. B. F. Simpson, W. P. Dutton.

From the County of Franklin, Sixteenth District—Mr. J. M. Hanway.

From the Counties of Osage, Breckenridge and Wise, Seventeenth District—Messrs. J. M. Winchell, Wm. McCullough.

From the County of Linn, Eighteenth District—Messrs. Joseph Lamb and J. M. Arthur.

From the County of Anderson, Nineteenth District—Mr. J. J. Blunt.

From the Counties of Coffey and Woodson, Twentieth District—Messrs. Crocker and S. E. Hoffman.

The PRESIDENT *pro tempore* stated that the certificates of the delegates from Jackson and Pottawatomie counties were on the table before him.

THE WYANDOTTE DELEGATION.

Mr. BARTON moved that the consideration of the omission of the [*II] Representatives of the coun*ty of Wyandotte in the law authorizing this Convention, and the claims of the two delegates from that county to seats in this body be now taken up.

Mr. SLOUGH. I am informed that two gentlemen claiming to have been elected to this body by the people of Wyandotte county, are present, and that they possess certificates from the Governor to that effect. It seems to me that the accidental omission in the law should not prevent their certificates being offered now.

TABLED.

Mr. THACHER. Mr. President, I think this action premature, as suggested once before. I presume the Convention will meet this question in due time. I therefore move to lay the motion of the gentleman from Johnson on the table.

Mr. STINSON demanded the yeas and nays, and they were ordered, and being taken, resulted—yeas 32, nays 12—as follows:

YEAS—Messrs. Arthur, J. Blood, N. C. Blood, Blunt, Burris, Burnett, Crocker, Dutton, Graham, Griffith, Hanway, Hoffman, Houston, Hutchinson, Ingalls, Kingman, Lamb, Lillie, May, McCullough, Middleton, Preston, Ritchie, Ross, Signor, Simpson, Stokes, Thacher, Townsend, Williams, Winchell, and Wright of Nemaha—32.

NAYS—Messrs. Foster, Forman, Hipple, Hubbard, McClelland, McCune, McDowell, Parks, Slough, Stiarwalt, Stinson, and Wright of Leavenworth —12

So the motion was laid on the table.

RENEWED—OUT OF ORDER.

Mr. STINSON. Mr. President, I move that Messrs. Bennett and Welborn, who have been duly elected by the people of Wyandotte county as members of this Convention, be admitted to the floor upon their credentials, and allowed to participate in this organization. He stated the condition of men and parties in this case. The body was not now sitting in judgment on the qualifications of these delegates. Every member here has a right to vote *prima facie*,—not because his certificate of election was signed by the Governor and bore the great seal of the Territory of Kansas, but because he was elected by the people. Were gentlemen going to decide a case without hearing it? Were the people of the county of Wyandotte to be disfranchised on account of a mistake of the Legislature? Were gentlemen willing to take advantage of such a mistake for the sake of strengthening their party? He held that this was an independent bill, deriving its authority from no superior source of legislation, but directly from the people, and being the sole judge of the qualifications of its members. The great argument against the Lecompton Constitution was disfranchizement—a people deprived of representation by an unjust, a fraudulent apportionment as it was alleged; and yet, with that cry in their mouths gentlemen were coming in here to practice the same thing against the people of Wyandotte. He cherished no feeling either personal or political in this matter. He would admit Republicans as well as Democrats in such a case. He desired earnestly, that when the Constitution of the State of Kansas went out to the people, it might go without the brand of any sort of political sculduggery.

Mr. THACHER rose to a point of order. The motion now submitted by Mr. Stinson was out of order, because a similar motion had just been disposed of by the Convention by a vote to lay it on the table. As the gentleman seemed so desirous to speak, he had interposed no objection till after he had concluded. But the motion was evidently unparliamentary.

The PRESIDENT *pro tem.* sustained the point of order, and the motion was ruled out.

APPEAL NOT SUSTAINED.

Mr. SLOUGH appealed from the decision of the President, and demanded the yeas and nays and the same being taken, the vote stood,—Yeas 30, Nays 15.

So the decision of the President stands as the judgment of the Convention.

RECESS DEFEATED.

Mr. THACHER moved that the Convention take a recess till 3 o'clock this afternoon.

Mr. STINSON moved to amend the motion to the effect that the Convention proceed immediately to the permanent organization of the Convention.

[*III] *The point of order being raised that a motion to adjourn was not capable of such amendment, the President ruled the amendment out of order. Mr. Thacher then withdrew the motion.

ELECTION OF OFFICERS.

Mr. GRIFFITH moved now that the Convention proceed to the election of President, *viva voce,* but withdrew it at the suggestion of Mr. Winchell that the roll of delegates should be called first.

ROLL CALL OF DELEGATES.

Mr. WINCHELL now moved that the roll of delegates be called.

Mr. STINSON moved to amend, by calling also the names of the delegates from Wyandotte county.

The motion was rejected.

Mr. Winchell's motion was agreed to, and fifty members answered to their names.

WYANDOTTE DELEGATES.

Mr. STINSON moved that the names of the delegates from Wyandotte county be now called.

The yeas and nays being demanded, the vote stood yeas 18, nays 29.

So the motion was rejected.

TEMPORARY ASSISTANT SECRETARY.

Mr. GRIFFITH renewed his motion to proceed to the election *viva voce* of a President of the Convention.

Mr. SLOUGH moved that the notion be amended so as to authorize the appointment of an Assistant Secretary to keep a full record of the proceedings of the Convention.

Mr. GRIFFITH objected to the amendment as not germane to the motion, and so out of order.

Mr. SLOUGH replied that if the Secretary *pro tem.* was not keeping a full record, these motions which had already been decided upon would have to be renewed when the Convention was thoroughly organized. It was due to the Convention that a full record be kept. If the Secretary was not competent to do it he should be removed, or sufficient help allowed him. He inquired through the President, whether the Secretary was keeping a full record?

The SECRETARY *pro tem.* admitted to the President *pro tem.* that he was not keeping as full a record of the motions as he could desire.

Mr. SLOUGH insisted on his amendatory motion to elect an Assistant Secretary *pro tem.;* which was agreed to, and the amendment adopted.

On motion of Mr. WINCHELL, Mr. Ross was ordered to serve as Assistant Secretary.

Objections were taken to Mr. Ross serving because he was a member of the Convention, but they were overruled by the President.

ELECTION OF PRESIDENT.

Mr. GRIFFITH nominated J. M. Winchell, of Osage county, for President of the Convention.

Mr. FORMAN nominated J. T. Barton, of Johnson county.

The vote stood as follows:

For J. M. WINCHELL—Messrs. Arthur, J. Blood, N. C. Blood, Blunt, Burris, Burnett, Crocker, Dutton, Graham, Greer, Griffith, Hanway, Hoffman, Houston, Hutchinson, Ingalls, Kingman, Lamb, Lillie, May, McCullough, Middleton, Preston, Ritchie, Ross, Signor, Simpson, Stokes, Thacher, Townsend, T. S. Wright, Williams—32.

For J. T. BARTON—Messrs. Forman, Foster, Hipple, Hubbard, McClelland, McCune, McDowell, Parks, Perry, Slough, Stiarwalt, Stinson, J. Wright—13.

The PRESIDENT *pro tem.* J. M. Winchell having received a majority of all the votes cast is declared duly elected President of this Convention.

Messrs. Ritchie and Slough were appointed to conduct the President to the chair.

Mr. STINSON inquired how the members of this Convention could effect a permanent organization legally without taking the oath of office, which is usually administered previous to such organization?

The PRESIDENT *pro tem.* The organization of this body is in the hands of its members, and not under the control of the preliminary President of the Convention.

Messrs. Ritchie and Slough conducted the President to the chair.

Mr. RITCHIE. Gentlemen of the Convention, I have the honor to introduce to you the Hon. J. M. Winchell, the permanent President of this body.

[***IV**] *The PRESIDENT said:

Gentlemen of the Convention: I return to you my sincere thanks for the position you have assigned me. Whilst I have neither solicited nor desired it, I am none the less able to appreciate the responsibilities and honors which it confers. I have only to say to you, gentlemen, that I shall exert myself to the utmost to so discharge the duties of this position as to facilitate the business of the Convention, and in this I trust I shall receive the cooperation of every member of the Convention; and whilst I shall favor no partisan or local prejudice which shall tend to interrupt the discharge of those duties, I trust also that that feeling will be reciprocated by you all.

WYANDOTTE DELEGATES AGAIN.

Mr. STINSON moved that the members now proceed to take the oath of office, including the members from Wyandotte, and that the Convention then proceed to complete the permanent organization.

Mr. THACHER inquired if there was a copy of the law authorizing the Convention present. He believed that law did not require the members to be sworn. The President ruled the motion of Mr. Stinson out of order, as it had already been passed upon.

Mr. STINSON appealed from the decision of the President. As he viewed the question, the Convention could not be legally organized until the members had taken the oath of office. Then, and not till then, it is the highest legislative power in the Territory of Kansas. But until it becomes the Constitutional Convention in this manner, we are not proceeding in accordance with the law, and until we comply with the strict letter of the law, we have no legal existence.

The PRESIDENT. The member from Leavenworth is out of order, unless he confines himself strictly to the question of appeal.

Mr. STINSON. The President's decision will force me to another appeal. I do not stand here as the representative of party. The reason for the decision of the President in reference to my motion is, that the Convention has already commenced a permanent organization. But I maintain that, until the members have taken the oath of office, they cannot proceed to a permanent organization or elect officers.

The PRESIDENT. The Convention has complete control over this matter, as well as over all the technicalities of the Convention. It has decided not to take the oath by omitting it. It is sovereign over this question.

Mr. STINSON attempted to reply, when he was ruled out of order, when he appealed from the decision of the President.

The decision of the Chair was sustained.

ELECTION OF SECRETARY.

The PRESIDENT announced the election of Secretary as next in order.

Mr. THACHER nominated J. A. Martin, of Atchison, as permanent Secretary.

Mr. FORMAN nominated William Spencer, of Atchison, for the same office.

J. A. MARTIN received thirty-two votes.

WM. SPENCER received fifteen votes.

J. A. MARTIN having received a majority of all the votes cast, was declared duly elected.

The PRESIDENT announced that the election of Assistant Secretary was next in order.

ELECTION OF ASSISTANT SECRETARY.

J. BLOOD nominated J. L. Blanchard, of Anderson county, for Assistant Secretary.

Mr. ———— nominated Mr. Blackman, of Leavenworth county, for the same office.

Mr. MCCLELLAND objected to further election of officers, as the Convention had not decided what officers were necessary, but was overruled.

Mr. BLANCHARD received thirty-two votes.

Mr. BLACKMAN received fourteen votes.

Mr. BLANCHARD having received a majority of the votes cast, was declared duly elected.

ELECTION SERGEANT-AT-ARMS.

The election of Sergeant-at-Arms being next in order,

Mr. BLUNT nominated G. F. Warren, of Lawrence.

Mr. FORMAN nominated John Castleman, of Shawnee.

[*V] *Mr. WARREN received thirty-three votes.

Mr. CASTLEMAN received fourteen votes.

Mr. WARREN having received a majority of all the votes, was declared duly elected.

COMMITTEE ON WYANDOTTE DELEGATES.

Mr. GRIFFITH offered a resolution that a committee of five be appointed by the Chair to investigate the credentials of those persons who claim seats from Wyandotte county.

Mr. SLOUGH moved to amend by inserting seven instead of five. The amendment was agreed to, and the motion, as amended, adopted.

RECESS.

Mr. KINGMAN moved that the Convention now adjourn till 9 o'clock to-morrow morning.

Mr. SLOUGH moved a recess till 4 o'clock this afternoon, which was agreed to.

The motion, as amended, was then agreed to, and the Convention took a recess till 4 o'clock, P. M.

AFTERNOON SESSION.

COMMITTEE ON CREDENTIALS.

The PRESIDENT announced the following committee on credentials, conformably to the resolution of Mr. Griffith: Messrs. Greer, Graham, Kingman, Simpson, Griffith and McClelland.

Mr. SLOUGH offered the following resolution, which was adopted:

Resolved, That the committee on credentials be instructed to frame and report for the consideration of the Convention, rules for its government.

VISITORS.

Mr. STINSON offered the following resolution, which was adopted:

Resolved, That such members of the late Council and House of Representatives as may visit the Convention be admitted to seats within the Bar.

COMMITTEE ON PROCEDURE.

Mr. HUTCHINSON offered the following resolution, which was adopted:

Resolved, That a committee of one from each Council District be appointed by the President of the Convention, to consider and report the best mode of proceeding in framing a Constitution for the State of Kansas, and that said report be made the special order for 9 o'clock, A. M., tomorrow.

OATH OF OFFICE.

Mr. GREER offered the following resolution, which was adopted:

Resolved, That the officers employed by this Convention be sworn to support the Constitution of the United States, and faithfully and impartially discharge the duties of their respective offices.

Mr. HUTCHINSON proposed to except members of the Convention from the provisions of the resolution.

The PRESIDENT. The terms of the resolution contemplate just what the gentleman proposes.

Mr. STINSON moved to amend by making it an order requiring all the members, as well as the officers of the Convention, to be sworn.

Mr. BLUNT. On examination of the law creating the Convention, it does not seem to provide for the administration of an oath to the members of the Convention. Although this course, has been usual, yet it has been by no means uniform. In some bodies like this the oath has been administered, in others not. This question came up in the Ohio Constitutional Convention of 1851. The law did not require that any oath should be administered to the members of that body, and the matter created considerable discussion, as may be seen in their reports; and it was finally agreed to administer the oath to support the Constitution of the United States and faithfully perform their duties as members of the Convention. As some members here seem to think they cannot perform their duty faithfully without it, I shall support the proposition.

Mr. GRIFFITH. I have no objection to being sworn to faithfully discharge my duty, but I do not see any necessity for this oath. If we were legislating, or acting on that which would be binding on our constituents, there would be a propriety in it. But every member who takes a proper view of his position knows that our action does not bind the people at all. They can adopt or reject what we submit. We are sent up here simply as [*VI] a *committee of the people, to prepare a Constitution for their consideration. If it meet their approbation they will adopt it, if not, they

will reject it. It seems to me that you might as well swear the delegates to a county convention, or persons assembled in town meeting. I cannot conceive it of the least importance. I am willing to take the oath, though I cannot think it will constitute us any more efficient members of the Convention.

Mr. HOUSTON. There is one objection to this. We have consented to proceed thus far without the oath. I suppose this was brought about because a majority of the members did not think the law required it. For my part, I confess that I forgot it. I was at first under the impression that members of such bodies as this were usually sworn, but I have examined into the matter, and am pretty well convinced that it is not material, because the Constitution to be produced by this Convention must be lifeless till the people give it the breath of life,—give it vitality and power. That being the case, I do not consider it important that any oath should be taken. But there are many things not really important in themselves which had still better be done, as we sometimes put on our coat, lest we offend against the fastidiousness of our neighbor. Kansas has had difficulties enough in her political history not to covet new ones, and now if we desire our work to be the Constitution of the State of Kansas, I think we had better take the oath. It might stop objections. I think it would be better to pass along so as to avoid objections as much as possible.

The amendment was agreed to, and so the original resolution was adopted.

DOORKEEPER, &C.

Mr. GRIFFITH. Mr. President, I move that we now proceed to the election of a Doorkeeper.

The motion was agreed to, and the President announced the order of nominations.

Mr. THACHER nominated J. M. Funk of Wyandotte, and there being no opposition—

On the motion of Mr. SIMPSON, Mr. Funk was declared Doorkeeper of this Convention.

On motion by Mr. GRIFFITH, it was

Ordered, That the Rev. W. R. Davis be invited to serve as Chaplain of this Convention.

On motion by Mr. SLOUGH, it was

Resolved, That the Sergeant-at-Arms be instructed to provide postage stamps for the use of members of this Convention.

Mr. GRAHAM submitted the following:

Resolved, That the Secretary of this Convention be empowered to employ such clerks as shall be necessary for the transaction of the business of this Convention.

Mr. SLOUGH proposed to amend by adding these words: "Whose names shall be reported to the Convention, and be subject to its approval."

Mr. GRAHAM accepted the amendment, and so the resolution was adopted.

Mr. BLUNT submitted the following:

Resolved, That the Convention proceed to the election of an efficient Reporter, to report in full the proceedings and debates of this Convention.

Mr. HUTCHINSON moved the reference of this subject to a committee of

three, who shall be charged with the duty of securing full reports of the debates and proceedings of this body.

The amendment was rejected—yeas 14, nays 30.

The question recurred on the original motion, and it was rejected without a division.

Mr. STINSON moved that a committee of three be appointed to adopt some means of preserving full reports of the debates and deliberations of this body.

Mr. THACHER. We have just voted down a similar resolution, couched in almost the identical words of this proposition. It seems to be the wish of this Convention that the subject of Reporting should be passed by for the present.

[*VII] *Mr. STINSON. To allow my friend over the way to introduce another motion, I withdraw the resolution for the present.

RESOLUTIONS TO BE WRITTEN.

Mr. GREER submitted the following:

Resolved, That all resolutions and motions submitted to this Convention shall be submitted in writing.

Mr. THACHER objected. It would consume too much of our time if every motion as well as resolution were to be submitted in writing. He moved to amend by striking out that portion which relates to motions, which was agreed to.

The resolution as amended was then adopted without a division.

SEATS FOR CLERGYMEN.

Mr. GRIFFITH moved that the clergy of Wyandotte be invited to take seats within the bar, which was agreed to without a division.

SELECTION OF SEATS.

Mr. HUTCHINSON offered the following:

Resolved, That the members now proceed to select their seats in the following manner: The names of the several members shall be written on separate pieces of paper and placed in a hat. The Secretary of the Convention shall then proceed to draw out and read the names, and each member shall select his seat in the order their names are thus read.

WYANDOTTE DELEGATION.

Mr. SLOUGH. I desire to present the credentials of the members from Wyandotte county, as a matter of reference. I move their reference to the committee on Credentials.

The motion was agreed to, and the credentials of Mr. Bennett and Mr. Welborn were thus received and referred.

MORRIS AND CHASE DELEGATES.

Mr. STINSON presented a memorial from Messrs. Wood and Espy, claiming seats as delegates from Morris and Chase counties, which he read from his seat.

Mr. STINSON. I move the reference of the memorial to a select committee of three, whose report shall be made the special order of the day at 9 A. M. to-morrow.

Mr. HUTCHINSON moved its reference to the committee on credentials.

Mr. STINSON. The committee has quite as many duties as it can attend to, and should not be burdened with extraneous labor.

The amendment was agreed to—yeas 23, nays 13.

The question recurred on the motion as amended, and it was adopted without a division.

Mr. SLOUGH presented the credentials of Messrs. Moore and Palmer of the counties of Jackson and Pottawatomie, and of one of the Leavenworth delegation, and moved their reference to the committee on credentials, which was agreed to.

OATH OF OFFICE ADMINISTERED.

Mr. MCDOWELL moved that the members receive the oath of office from some competent person.

Mr. STIARWALT presented the credentials of R. J. Porter and Benjamin Wrigley, which were referred on his motion to the committee on credentials.

Mr. Ross offered a resolution that the Sergeant-at-Arms be authorized to appoint such messenger boys as he may deem necessary.

Mr. FORMAN. The power proposed to be given him is too unlimited. I move to amend by adding the words, "not to exceed two in number."

The amendment was agreed to, and the resolution adopted.

Mr. STINSON. Learning that Wm. L. McMath, a Notary Public of Wyandotte, is present, I move that the oath of office be administered by him to the members of this Convention, which was agreed to.

Mr. MCMATH now advanced to the President's table, and the members rising in their places received the following oath:

"You, and each of you will support the Constitution of the United [*VIII] States, and faithfully *discharge your duties as members of this Convention."

The officers of the Convention then stood up and a similar oath was administered to them by Mr. McMath.

DAILY PRAYER.

Mr. HOFFMAN moved that the morning session of the Convention be opened with prayer, which was agreed to without a division.

ADMISSION OF LADIES.

Mr. MCCLELLAND moved that ladies be admitted to seats within the bar, which was agreed to without division.

STANDING COMMITTEES.

Mr. MCDOWELL moved that the President appoint the following Committees:

A Committee consisting of nine members on the Judiciary.
A Committee of seven, on the Executive department.
A Committee of eleven, on the Legislative department.
A Committee of seven on Corporations.
A Committee of five on Schedule.
A Committee of nine on Apportionment.

Mr. KINGMAN moved to amend by referring the whole subject to the committee on the preparation of business for the Convention.

The amendment was agreed to, and the motion as amended adopted.

BUSINESS COMMITTEES.

The PRESIDENT, conformably to a resolution adopted this day, announced the following committees on the arrangement of business for the Convention.

1st, Council District, Stiarwalt; 2d, Ingalls; 3d, McDowell; 4th, Slough; 5th, T. S. Wright; 6th, Ross; 7th, McCullough; 8th, Hutchinson; 9th, Blunt; 10th, Burris; 11th, Wm. Arthur; 12th, Burnett; 13th, Crocker.

ADJOURNMENT.

Mr. FORMAN moved that the Convention adjourn till 10 o'clock to-morrow. A member proposed 9 o'clock, which was accepted.

And then the Convention adjourned till to-morrow morning at 9 o'clock.

WEDNESDAY, July 6, 1859.

The Convention met at 9 o'clock.

Prayer by the Chaplain, Rev. M. R. Davis, of Douglas county.

The journal of yesterday was read by the Secretary, and authenticated.

Messrs. Porter of Doniphan, Palmer of Pottawatomie, Brown of Leavenworth, and Wrigley of Doniphan now came forward, presented their credentials and received the oath of a member of this Convention at the hands of Mr. McMath.

CREDENTIALS—WYANDOTTE REPRESENTATION.

Mr. GREER, from the committee on Credentials, submitted three reports, which were read by the Secretary.

The first was to the effect, that the following gentlemen are entitled to seats in this Convention:

W. R. Griffith, Bourbon, McGee and Dorn.
J. H. Signor, Allen.
S. O. Thacher, Douglas.
C. B. McClelland, Jefferson.
Samuel A. Kingman, Brown.
J. A. Middleton, Marshall and Washington.
Thomas S. Wright, Nemaha.
John Stiarwalt, Doniphan.
J. W. Forman, do.
Robert Graham, Atchison.
E. M. Hubbard, Doniphan.
Caleb May, Atchison.
Samuel E. Hoffman, Coffey and Woodson.
J. M. Winchell, Osage, Weller, Breckenridge, Morris, Chase and Wise.
Allen Crocker, Coffey and Woodson.
Pascal S. Parks, Leavenworth.
S. D. Houston, Riley.
J. T. Barton, Johnson.
J. T. Burris, do.
James Hanway, Franklin.
Frederick Brown, Leavenworth.
Eph. Moore, Jackson.
Luther R. Palmer, Pottawatomie.
R. J. Porter, Doniphan.
Samuel Hipple, Leavenworth.
[*IX] *J. J. Ingalls, Atchison.
Benjamin Wrigley, Doniphan.
P. H. Townsend, Douglas.
James Blood, do.
N. C. Blood, do.
E. Stokes, do.
W. P. Dutton, Lykins.
John Ritchie, Shawnee.
R. L. Williams, Douglas.
H. D. Preston, Shawnee.
William Hutchinson, Douglas.
John P. Slough, Leavenworth.
Samuel T. Stinson, do.
Adam D. McCune, do.
Wm. C. McDowell, do.
John Wright, do.
William Perry, do.
Robert C. Foster, do.

J. C. Burnett, Bourbon, McGee and Dorn.
John P. Greer, Shawnee.
B. F. Simpson, Lykins.
Josiah Lamb, Linn.
Edmund G. Ross, Waubonsa, Richardson, Davis, Dickinson and Clay.
William McCullough, Osage, Weller, Wise, Breckenridge, Morris and Chase.
J. M. Arthur, Linn.
J. J. Blunt, Anderson.
G. H. Lillie, Madison, Butler, Hunter, Greenwood, Godfrey and Wilson.

The second report, from the majority of the committee on Credentials was adverse to the credentials of Mr. Bennett and Mr. Welborn from the county of Wyandotte.

Mr. SLOUGH, from a minority of said committee submitted a report dissenting from the opinion of the majority, and proposing to admit Messrs. Bennett and Welborn to all the rights of membership of the Convention.

BUSINESS ARRANGEMENT.

Mr. STIARWALT, from the committee of thirteen on the Arrangement of Business, submitted the following report:

Resolved, That this committee report to the Convention the following plan for framing a Constitution:

That there shall be but six committees, which shall be appointed by the President of the Convention.

The 1st committee shall consist of thirteen, which shall report to the Convention a Constitution. The 2d shall be a committee on Schedule, consisting of thirteen. The 3d shall be a committee on Apportionment, to consist of thirteen. The 4th, a committee on Bill of Rights and Preamble, to consist of thirteen. The 5th a committee of thirteen on Phraseology and Enrollment. The 6th a committee of thirteen on Ordinances and Boundaries.

Mr. SLOUGH, from the same committee, reported the following:

1st. Committee on Preamble and Bill of Rights, to consist of five members.
2d. Committee on Executive Department, to consist of five members.
3d. Committee on Legislative Department, to consist of five members.
4th. Committee on Judicial Department and Jurisprudence, to consist of eleven members.
5th. Committee on Militia, to consist of five members.
6th. Committee on Electors and Elections, to consist of seven members.
7th. Committee on Schedule, to consist of nine members.
8th. Committee on Apportionment, to consist of thirteen members.
9th. Committee on Corporations and Banking, to consist of thirteen members.
10th. Committee on Education and Public Institutions, to consist of seven members.
11th. Committee on County and Township Organizations, to consist of seven members.
12th. Committee on Ordinance and Public Debt, to consist of thirteen members.
[*X] *13th. Committee on Finance and Taxation, to consist of eleven members.
14th. Committee on Amendments and Miscellaneous Business, to consist of seven members.
15th. Committee on Printing and Arrangement, to consist of fifteen members.

Mr. SLOUGH. Mr. President, the committee was about equally divided between these two plans, and, for the purpose of bringing the matter before the Convention, I move the adoption of the latter.

The motion was agreed to, and the latter plan adopted on a division—affirmative 27, negative 17.

THE WYANDOTTE REPRESENTATION.

Mr. STINSON. Mr. President, I move that the minority report of the committee of Credentials in relation to the seats claimed by Mr. Bennett and Mr. Welborn, of Wyandotte county, be now taken up.

The motion was agreed to.

Mr. STINSON. I am informed, sir, that these gentlemen desire to be heard by attorney, and I therefore move that by their attorney, they be permitted to appear and implead their claim before the bar of this Convention.

The yeas and nays being demanded, ordered and taken on this question, resulted—yeas 27, nays 23—as follows:

YEAS—Messrs. Arthur, Blunt, Brown, Barton, Burris, Foster, Forman, Griffith, Hipple, Hubbard, Hanway, Hoffman, Houston, Lamb, May, McDowell, McCune, McClelland, Preston, Palmer, Parks, Slough, Stiarwalt, Stinson, Simpson, J. Wright, Wrigley—27.

NAYS—Messrs. Burnett, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Hutchinson, Ingalls, Kingman, Lillie, Middleton, McCullough, Porter, Ritchie, Ross, Signor, Stokes, Thacher, Townsend, T. S. Wright, Williams, and Mr. President—23.

So Mr. Stinson's motion was adopted.

Mr. STINSON. I now move that the hearing of this matter be made the special order for to-morrow morning at the opening of the session.

The motion was agreed to, and the order made accordingly.

MORRIS AND CHASE DELEGATION.

Mr. STINSON. Mr. President, there is another case of a similar character before the Convention—that of Messrs. Wood and Espy, claiming seats in this body from the counties of Morris and Chase. The committee on Credentials have made no recommendation in this case. Mr. Wood and Mr. Espy are now in the Hall, and desire to be heard at the bar of the Convention. I therefore move that they be allowed to present their case.

Mr. GRIFFITH. Their papers have not yet been considered by the committee on Credentials. I cannot see the propriety of taking the case out of their hands before they have had time to examine it.

The PRESIDENT. The Chair is of opinion that the case is before the committee.

Mr. STINSON. It seems to me that the case has been abandoned by the committee, and therefore I think the Convention should decide it.

The PRESIDENT. The memorial of these gentlemen was presented to the Convention yesterday, and referred to the committee on Credentials. That committee stated this morning, that the memorial had not been before them, and they therefore made no report in the case. The committee have not been discharged from the consideration of the subject, and the Chair will rule, that the case is still in their hands. At the proper time, of course, the Convention will express its pleasure on the question of allowing these gentlemen, or either of them, the privilege of being heard before the body.

RULES OF THE CONVENTION.

Mr. SLOUGH, from the Committee on Rules, reported a proposition to adopt the Standing Rules and Regulations of the last House of Representatives of the Territorial Legislature, so far as they may be applicable for the government of this Convention. The proposition was adopted.

[*XI] *MORRIS AND CHASE REPRESENTATION.

Mr. THACHER. Mr. President, I move that the Committee on Credentials be instructed to report back to the Convention all the cases before them to-morrow. I wish to dispose of this business as soon as possible.

Mr. STINSON. I propose to amend the motion to this effect: That the committee be now discharged from the further consideration of the memorial of Messrs. Wood and Espy.

Mr. THACHER. That is more a substitution than an amendment.

The PRESIDENT. The motion is in order.

Mr. BURRIS. Is there any other business before the Committee on Credentials.

Mr. GREER. That is the only business before the committee.

Mr. BURRIS. I shall oppose the amendment, for the reason that this is the proper committee to consider that question.

The PRESIDENT. The Convention has decided to take it up to-morrow morning at 9 o'clock.

Mr. STINSON moved to amend by inserting *"prima facie"* before the word "delegates."

Mr. RITCHIE moved that the motion lie on the table.

Mr. STINSON demanded the yeas and nays, and they were ordered.

Mr. GREER. In voting for the motion to lie on the table, I shall do so because the Convention is not in a position to enable it to take action, having postponed by its vote the consideration of the question till to-morrow morning.

Mr. THACHER. The object of a committee is to expedite business—to present here considerations to enable us to act intelligently. I hope this matter will be allowed to take the regular course. I see no reason for any discrimination in this case.

The amendment was rejected, and then the original motion was adopted and made an order of the Convention.

RULES OF THE CONVENTION, &C.

Mr. SLOUGH submitted the following:

Resolved, That the Sergeant-at-Arms be instructed to have two copies of the rules and Regulations adopted for the government of this Convention printed for the use of the members.

Mr. PARKS proposed a substitute, as follows:

Resolved, That a committee of three be appointed to make provision for the necessary printing of this Convention.

Mr. SLOUGH. It seems to me that cannot be properly considered as an amendment. My proposition contemplates the specific printing of the Rules.

Mr. PARKS. I suppose we, of course, ought to have the Rules printed, and I consider also that we should have a committee on the whole subject of printing.

Mr. GRIFFITH. I offer the following by way of amendment to the substitute.

Resolved, That a committee of three be appointed to take measures for the preservation of the proceedings and debates of this Convention, and to make provision for the necessary printing of the Convention.

Mr. PARKS accepted the modification, and so his substitute was agreed to.

The resolution as amended, was then adopted.

MEETING AND ADJOURNMENT.

Mr. HIPPLE submitted the following:

Resolved, That until otherwise ordered 9½ o'clock in the forenoon shall be the hour of meeting of this Convention, and 12 o'clock M. the hour of adjournment; and that there shall be an afternoon session each day, commencing at 3½ o'clock and ending at 5 o'clock.

Mr. RITCHIE proposed 9 o'clock instead of 9½ o'clock.

Mr. HIPPLE accepted.

Mr. SLOUGH proposed to modify and make the order to this effect: That until further ordered, we have but one session a day—beginning at 9 o'clock and ending at 1. He submitted this for the reason that for the first week of the session our committees will be employed the greater part of the day. There could be very little done in the Convention till the [*XII] committees be*gin to report. Four hours a day, it seemed to him, would be all the time we could profitably occupy in the body.

The modification was adopted.

REPORTERS FOR THE PRESS.

Mr. RITCHIE submitted the following, which was adopted:

Resolved, That the Sergeant-at-Arms be instructed to prepare seats for reporters for the press within the bar of the Convention.

DAILY COMMERCIAL GAZETTE.

Mr. THACHER. I understand there is to be a daily newspaper—the *Commercial Gazette*—issued in Wyandotte during the session of this body, which is to embrace a report of our proceedings. I therefore move that the Sergeant-at-Arms be instructed to procure two copies of *The Daily Commercial Gazette* for the use of each member and officer of this Convention, and his Excellency the Governor of the Territory.

The motion was agreed to, and the order was made accordingly.

COMMITTEE ON FEDERAL RELATIONS.

Mr. HOUSTON submitted the following, which was adopted:

Resolved, That a committee on Federal Relations be added to the Standing Business Committees of this Convention.

MORRIS AND CHASE REPRESENTATIVES.

Mr. STINSON submitted a resolution making the hearing of the case of H. J. Espy and S. N. Wood, claiming to be delegates to this Convention from the counties of Morris and Chase, the special order for to-morrow at 11 o'clock.

Mr. THACHER proposed to make it an order that the Convention shall dispose of all these cases to-morrow. It will probably take all day, and we might as well have a sweet time of it.

Mr. Ross. I understand this motion is out of order. The matter is in the hands of the Committee on Credentials.

The PRESIDENT. The point is well taken.

Mr. STINSON. The resolution contemplates that when the report is made, the Convention will then allow those gentlemen claiming seats to be heard.

Mr. RITCHIE. I propose to amend, by adding that Mrs. Nichols be heard in behalf of the ladies.

Mr. BLUNT. I presume the Convention will be willing to hear all who are entitled to be heard. When the proper time comes—when the committee shall report on the matter in their memorial I shall be in favor of admitting these gentlemen for the hearing of their case.

Mr. STINSON now modified his proposition so as to leave it without fixing any time.

Mr. HUTCHINSON. We cannot anticipate the report of the committee. I move to lay the resolution on the table; but he subsequently withdrew the motion.

Mr. HOUSTON. Whether the claim was good or bad, it was as little as we could do to allow these gentlemen to be heard.

Mr. KINGMAN. The memorial in question has never been in possession of the House. By the indulgence of the Convention the gentleman from Leavenworth read it at his desk—not at the Secretary's table.

Mr. STINSON. I sent it to the Secretary, and afterwards I sent it to the committee, but they did not get it at once.

Mr. KINGMAN. I renew the motion to lay on the table.

Mr. Stinson demanded the yeas and nays, and the same being ordered and taken, resulted—yeas 31, nays 21—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Forman, Greer, Hubbard, Hutchinson, Hanway, Ingalls, Kingman, Lillie, Lamb, Middleton, May, McCullough, Preston, Perry, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, T. S. Wright, Williams—31.

NAYS—Messrs. Brown, Barton, Dutton, Foster, Graham, Griffith, Hipple, Hoffman, Houston, Moore, McDowell, McCune, McClelland, Palmer, Parks, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, Mr. President—21.

So the resolution was laid on the table.

CONVENTION PRINTING.

Mr. MCDOWELL submitted the following:

[*XIII] *Resolved,* That the committee on Printing *be instructed to report to the Convention, for approval, all contracts for the necessary printing of the Convention, and that they be instructed to have said printing done by contract.

Mr. MCDOWELL said: This committee now have unlimited power in reference to this matter. I think their action ought to be subject to the approval of the Convention, in order that there may not be made unnecessary expenditures on account of printing.

The resolution was adopted.

CREDENTIALS.

Mr. BLUNT. Mr. President, what action has been taken upon the report of the majority of the committee on the credentials of members?

The PRESIDENT. It lies on the table, subject to the action of the Convention.

On motion of Mr. THACHER that report was concurred in.

On motion of Mr. PARKS, modified by Mr. McClelland, it was—

Ordered, That 150 copies each of the reports of the majority and the minority of the committee on credentials be printed for the use of the Convention.

SELECTION OF SEATS OF MEMBERS.

Mr. PARKS submitted the following:

Resolved, That the Convention proceed now to select seats for members, and that said selection be made by the clerk writing the name of each member on different pieces of paper, and placing the same in a hat, and as each name is drawn from the hat, the member indicated shall be entitled to select his seat.

Mr. SLOUGH submitted the following substitute, which was adopted, and the order taken accordingly:

Resolved, That the Convention proceed to select seats by lot, and that numbers from 1 to 23 inclusive be placed in a hat, and that the same when drawn shall authorize the selection of seats by each delegate in accordance with the proper number of their district.

So thereupon the members-elect of the Convention proceeded to their seats.

WYANDOTTE REPRESENTATION.

Mr. PARKS now moved that the Sergeant-at-Arms procure seats within the bar for the delegates claiming seats in this Convention from Wyandotte county.

Mr. MCDOWELL wished to inquire when this question would come up before the Convention? There seemed to be a misunderstanding as to the time, some supposing it to be this afternoon, others to-morrow morning.

Mr. BURRIS. I must vote *aye*, because I cannot offer the amendment I desire to offer to this motion. This motion recognizes the members as possessing *prima facie* evidence of election, which the Convention has no proof of.

Mr. GRIFFITH. I shall vote *no* because I am willing to extend all possible courtesy to the delegates claiming seats from Wyandotte county. The motion to table will not reach the desired end, as it will not be final. If the Convention refuse to table the resolution, we can then strike out the objectionable words "*prima facie*."

Mr. PARKS. I desire to say that I accepted the words "*prima facie*" because they state the true merits of the case. If they were not in the resolution, it would recognize the claimants as *bona fide* delegates from Wyandotte county. The words *prima facie* explain the propriety of the resolution.

Mr. WRIGLEY. I desire to state in explanation of my vote, as I shall vote *no*, that I do so because I believe there is *prima facie* evidence that Drs. Bennett and Welborn are entitled to seats on this floor. The people of Wyandotte county held an election in accordance with the regulations of the Convention Act, as elections were held in other parts of the Territory,

and elected these delegates. Their credentials are certified to by the proper county officers and by the Governor, as having received a majority of the votes in this county for the office of delegate. I have too great respect for [*XIV] the voice of the people to *disfranchise the county of Wyandotte, by rejecting her delegates.

The roll call was now commenced, and the vote was—yeas 26, nays 20—as follows:

YEAS—Messrs. Arthur, Burnett, Burris, N. C. Blood, Crocker, Dutton, Graham, Greer, Hutchinson, Hanway, Houston, Ingalls, Kingman, Lamb, Lillie, Middleton, McCullough, Preston, Porter, Ritchie, Ross, Stokes, Simpson, Townsend, T. S. Wright, Williams—26.

NAYS—Messrs. Brown, Barton, Forman, Foster, Griffith, Hipple, Hubbard, Hoffman, May, McDowell, McCune, McClelland, Parks, Signor, Slough, Stiarwalt, Stinson, Thacher, J. Wright, Wrigley, Mr. President—21.

So the motion was laid on the table.

Mr. KINGMAN offered the following resolution as to the seats of members from Wyandotte, which was agreed to:

Resolved, That the Sergeant-at-Arms be instructed to procure seats for Messrs. Bennett and Welborn, claiming seats on this floor as delegates from Wyandotte county, for their use while their claim for seats is pending.

Mr. MCCLELLAND offered a resolution authorizing the Sergeant-at-Arms to supply each member with a bottle of mucilage, which, on motion of Mr. May, was laid on the table.

MORRIS AND CHASE REPRESENTATION.

Mr. STINSON presented a memorial from S. N. Wood, representing that his case had been prejudiced, and withdrawing his claim to a seat in the Convention for the counties of Morris and Chase.

Mr. KINGMAN moved that the memorial be rejected. The Convention had taken no action prejudicial to the claims of the memorialist. The statement was correct that the committee had not had possession of the memorial, and the Convention had authorized them to defer the report until to-morrow. Because the Convention was unwilling to act on mere assertions and vague statements, in comes this memorial, insulting this body by the plea that we practice disfranchisement as a principle of this government—that we will disfranchise whomsoever we please! No member of the Convention had even indicated an opinion as to what its action should be. This body has decided to postpone a decision till to-morrow, when a report will be made. The same course has been pursued in reference to the memorialist from Morris and Chase and the claimants of seats from Wyandotte.

Mr. STINSON. I have a word to offer. I understand the position in which the memorialist considers himself to be placed by the action of the Convention. He comes here believing himself entitled to a seat in this Convention, as legally elected. He presented a memorial, which had the courtesy of a reference. But the committee has not reported, and perhaps there is a good reason for it. I came in for him and asked for immediate action upon it, that he may not be compelled to wait here from day to day for a tardy decision. This was refused us. We were denied the privilege of a determination to-day. I went further, and asked that those claimants who knew best their own rights and claims, should be permitted

to argue them before this body, whenever the matter comes before it by a report of the committee on credentials. This motion was tabled by a strict party vote, I am sorry to say. He had the right to infer that his claims were ignored and his county disfranchised. He sends in this memorial to prove to his constituents that he has performed his duty. All we ask is, that the Convention shall take the responsibility of acting on this question, and put that action on record.

Mr. BURRIS. I move to amend the motion to reject, by referring the memorial to the committee on credentials. That committee has been instructed to report on all contested cases to-morrow morning. The memorialist has been told that he shall have a hearing, in the only proper mode—through a committee. The question is not before the Convention, but before the committee, which is the proper party to have the subject referred to.

Mr. THACHER. I shall oppose this amendment, and vote for rejection. [*XV] This memorial *is an insult, and offensive in its tone. The memorialist claims to be a delegate from the counties of Morris and Chase, which he asserts are unrepresented here. I hold in my hand the proclamation of Governor Medary, whose Democracy no one will impeach. I read from the proclamation the following as vote of the 17th district, comprising Osage, Breckenridge, Morris and Chase:—[Having given the votes returned in said district, he proceeded to say.] On this vote the Governor declared J. M. Winchell and Wm. McCullough duly elected from that district. Chase county is represented by them. Yet the memorial claims the opposite—that the counties of Morris and Chase are disfranchised. I hope the memorial will be rejected as a deliberate insult to this body.

Mr. Ross moved to indefinitely postpone the whole subject.

The question was then taken on Mr. Burris' amendment, and it was lost.

The motion to reject was agreed to without a division.

The President announced the standing committee on printing and preservation of the records to be—Messrs. Ross, Townsend and Barton.

COMMISSIONERS ON CLAIMS.

He also presented the following paper from the Commissioners on Claims, which was ordered to be filed by the Secretary:

WYANDOTT CITY, July 5, 1859.

To the President of the Convention to frame a Constitution, &c.:

SIR:—Pursuant to the provisions of an act entitled "An act to provide for the adjustment and payment of claims," approved Feb. 7th, 1859, it is the duty of the undersigned, Commissioners under said act, to make report of their proceedings to the Constitutional Convention to-day.

We are yet engaged in the preparation of the report specified, and will probably be ready to transmit the same, for the use of the Convention, within five or six days. A tabular statement of about 500 lines of double column "figure work" will necessarily accompany the report, (which will not exceed fifteen or twenty pages octavo,) and is the last portion that can be prepared.

The expediency of having the report and statement printed immediately, that every member may have a copy, and comprehend, at a glance, the character, extent, and result of our labors, is respectfully submitted for the consideration of the Convention.

Very respectfully,

EDWARD HOOGLAND,
HENRY J. ADAMS,
SAMUEL A. KINGMAN,
} Comr's of Claims.

Mr. McDowell moved to adjourn, but withdrew the motion by request.

NO WYANDOTTE REPRESENTATION.

Mr. BLUNT moved a reconsideration of the vote by which the Convention agreed to hear the claimants from Wyandotte county, by attorney, at 9 o'clock to-morrow. He remarked: The view I take of the question is this. No person is more desirous than myself that Messrs. Bennett and Welborn should have a full and fair hearing. If there are not persons on this floor who can advocate their claims with sufficient ability, I am willing that they should have the assistance of attorneys. I am anxious that the Convention shall consider the question as soon as possible, as we are about to adjourn till to-morrow, and none of the business committees are appointed, and the members have no work before them. If reconsidered, I should move that the reports of the committee on credentials in reference to the Wyandotte delegates be referred to a committee of one from each council district, before whom the claimants and their attorneys may appear and argue the case, and who shall report their decisions to this Convention at the opening of the session on Thursday. The Convention refused to reconsider by yeas 24, nays 25—as follows:

[*XVI] *YEAS—Messrs. Arthur, Burnett, Blunt, Burris, N. C. Blood, Crocker, Dutton, Hanway, Hoffman, Houston, Ingalls, Lillie, Lamb, Middleton, McCullough, Preston, Ritchie, Ross, Signor, Simpson, Thacher, T. S. Wright, Williams, Mr. President—24.

NAYS—Messrs. Brown, Barton, Foster, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Hutchinson, Kingman, May, McDowell, McCune, McClelland, Palmer, Parks, Porter, Slough, Stinson, Stiarwalt, Townsend, J. Wright, Wrigley—25.

THURSDAY, July 7, 1859.

The Convention met at 9 o'clock.

Prayer by the Chaplain.

The journal of yesterday was read by the Secretary and authenticated.

THE WYANDOTTE REPRESENTATION.

Mr. KINGMAN. Mr. President, I feel anxious to facilitate the proceedings of the Convention, and we are all admonished by our feelings—the influence of the warm season—that a long session will be injurious to us, as well as distasteful to our constituents. I have a motion to make in regard to the business before the House, which has been made the special order for this hour, which I think may prevent a discussion of two or three days. It seems to me it would be in order, inasmuch as these claimants of seats have not confidence to appear for themselves—to make a motion to commit the whole matter again to the Committee on Credentials—that the matter may be heard there by counsel.

The motion was agreed to, and the case was recommitted accordingly.

PUBLIC DEBT—CORPORATIONS.

Mr. BLUNT submitted the following:

Resolved, That the Constitution to be framed by this Convention should contain a provision that whenever the Legislature shall provide for the raising of money by loan on the credit of the State, that the act authorizing said loan shall provide means for the prompt payment of the interest on said loan, and also for the final payment of the bonds at maturity, by designating and setting apart certain moneys for these purposes which shall not be devoted to any other purpose.

Resolved, That the Constitution of the State of Kansas should prohibit the Legislature from creating by act of incorporation any bank of issue unless said act shall provide that the bank so created shall deposit with the comptroller of the Treasury stocks of the State of Kansas or of the United States, as collateral for the redemption of the circulation of said bank, and that the comptroller be authorized to countersign no more circulating notes for said bank than may be the cash value of said stocks at the time they are deposited.

Mr. RITCHIE proposed to lay it on the table and print.

Mr. WRIGLEY moved that the resolutions be referred to the Committee on Banks and Corporations.

Mr. HOUSTON. It seems to me it would expedite business if the Convention would agree to consider all these important questions in committee of the whole, so that the standing committees could be certainly informed of the judgment of the House. If we put these propositions first into the hands of the standing committees, they may lie there till dog days, waiting for information to enable the committees to harmonize.

Mr. BLUNT. The matter of the resolutions is certainly of considerable importance. The object in offering them was that they might serve as instructions to the committee having those subjects in charge; for if adopted they would reflect the sense of the Convention on those subjects. I think it will be conceded that there is nothing of more importance to a new State than that its financial and banking system should be established on a sound and solid basis. The views shadowed forth in the two resolutions I think will meet all wants of the new State of Kansas; and if we pass these resolutions here it settles the matter to a certain extent definitely as to what is the judgment of the members of the Convention in relation to [*XVII] the *subject of corporations and the creation of a State debt. If, as proposed in the first resolution, we make it imperative that wherever the credit of the State is used by the Legislature, they shall provide for the prompt payment of the accruing interest, and the prompt payment of the debt at maturity, we shall inspire confidence in our bonds in the stock market, and then if, as in the second resolution, we provide that our banking system shall be established on a solid basis, we shall always have the advantage of safe and judicious banking institutions, perfectly secure to the bill-holder, and providing for all the wants of the commercial interests. If the provisions of the first resolution shall be strictly carried out, our bonds in the market will find as ready sale as those of the State of Ohio, or even the 6 per cent. bonds of the United States: and if, in creating a banking system, we recognize no other stocks except the stocks of the United States, we shall have a system that will inspire confidence throughout the country.

Mr. WRIGLEY. While I admit that the gentleman has made a close constitutional argument—while I fully agree with much that he has said, and do not know that I could have much objection to the resolution, yet I

must protest against such propositions being brought before the Convention at this time. They are out of place now; for suppose every member of the body should foist in his views in this way—all these propositions are to be printed, and it would require all the printing offices in the country to furnish them. I repeat: the views may be good enough, but it is not the proper time to present them. It occurs to me that all such resolutions should be referred to the appropriate committees; and from the mass let the committees select the cream and present that to the Convention, which is finally to determine what shall be the Constitution. The Convention, sir, will have enough to do to reconcile reports. I move that it be referred to the appropriate committee.

The amendment was agreed to, and so it was ordered to be referred to the Committee on Banks and Corporations and printed.

THE WYANDOTTE REPRESENTATION.

Mr. SLOUGH. I move to reconsider the vote by which the Convention recommitted the case of Messrs. Bennett and Welborn to the Committee on Credentials. I appreciate the purpose for which the motion was made (and I voted for it) to obviate the necessity of occupying time in hearing the argument of counsel. But, on reflection, I am satisfied that that object will not be accomplished; because, after the hearing before the committee, the Convention cannot rid itself of the order for hearing the arguments in this chamber. A resolution was adopted yesterday to hear these parties by their attorneys at the bar of the Convention—subsequently a motion to reconsider that vote was lost; therefore in accordance with all parliamentary usage we cannot now rid ourselves of the obligation to hear the case.

After further remarks in this direction, the President ruled that the morning business must be first proceeded with under the rules adopted for the government of the Convention, and that afterwards the motion of the gentleman from Leavenworth could be entertained.

BASIS OF ACTION.

Mr. BLUNT submitted the following:

Resolved, That the several committees appointed to draft the several subdivisions of the Constitution for the consideration of this Convention be instructed to adopt the Constitution of the State of ———— as a model or basis of action—and that the Sergeant-at-Arms be authorized to procure the printing of sixty copies of said Constitution for the use of members.

Mr. HUTCHINSON. I see one difficulty in this resolution. I think by this resolution we are barred from choosing certain Constitutions that might be the preference of members. I therefore submit the following by way of a substitute:

Resolved, That every standing committee be instructed to adopt the ——— Constitution for their proceedings in forming their respective reports.

[*XVIII] Mr. BLUNT. I see no material difference be*tween the two propositions. The idea I had in view was that if the resolution should prevail we may afterwards fill up the blank by calling the roll—by the choice of the majority—that would give every man a fair opportunity of expressing his preference.

Mr. SLOUGH. It seems to me, Mr. President, that before we pass upon that, if the Convention have any idea of adopting the resolution, the blank

should be filled first, and for the purpose of action I propose that the blank be filled with the word "Minnesota."

Mr. GRIFFITH. I propose "Indiana."

Mr. THACHER. I would suggest to the Convention that we could just as well get at it by the majority vote in the manner shadowed forth by the gentleman from Anderson, that is, adopt the resolution with the blank, and afterwards, as the roll may be called, let each member name the Constitution he prefers, &c.

Mr. SLOUGH. I withdraw the motion.

Mr. GRIFFITH. I withdraw mine if the gentleman from Leavenworth withdraws.

Mr. SLOUGH. Mr. President, it is necessary to fill the blank before passing the resolution, for it cannot be touched afterwards. I now make the motion that the terms of the resolution be so modified as to require the blank to be now filled.

On motion by Mr. Wrigley the whole subject was laid on the table.

BASIS OF APPORTIONMENT.

Mr. GREER offered the following:

Resolved, That the Secretary of the Territory be requested to furnish the Convention at as early a day as practicable, an abstract statement showing the census of the several counties of the Territory, taken under the act of the last Legislative Assembly.

Mr. G. said: I do this for the purpose of placing before the Convention the strength of the polls of the different counties, for the purpose of furnishing a proper basis for the apportionment of the representation of the Senators and the Representatives of this State.

Mr. HUTCHINSON. It occurs to me that there will be too much delay in that, inasmuch as we expect to be here but a few weeks, and we are not sure these returns will be made to the Secretary of the Territory in season to reach the Convention. It seems to me that each delegate should address by letter the clerk of his county. This means of information would be more direct and certain. It might be less official in some degree, but it would be satisfactory and it would be sure to reach us in time.

Mr. GRIFFITH. The proposition of the gentleman from Shawnee may cover the ground, but for fear some of the clerks might not get the returns into the Secretary's office, I propose to amend the resolution by adding these words:

"Requested to address a letter to the clerks of the counties included in their districts, requesting them to forward by mail to this Convention an abstract of the census returns under seal, in file in their office."

Mr. SLOUGH seconded the amendment, for fear that in the transmission from the various counties to the Secretary's office accidents might happen, so that through the Secretary and through the county clerks we may have the desired information.

Mr. Ross submitted the following:

Resolved, That the President be authorized to employ a sufficient number of messengers to go into the various counties for this purpose.

Mr. BLUNT. I think the plan proposed in the substitute is the best thing that can be done and I move its adoption. It is very obvious that this is the only way in which we can get the elements of an accurate basis for apportionment. If we take the vote in the election of delegates to this

Convention, it will in a manner disfranchise a number of counties. In my county we can poll between five and six hundred votes, but we did not cast [*XIX] in this last election but two hundred—*whilst in other counties, as in the county of Leavenworth, they polled their entire strength. All we ask is a fair count; we in the southern part of Kansas are a little tenacious in this matter, for, as it is well known, we have been in a manner disfranchised in the Territorial Legislature for the last two years, and it is time we should have accorded to us that which we are entitled to. I have written to the clerk of my county. I may get his answer in time, and I may not. I am anxious that the Convention should complete its labors as soon as possible, and nothing can be done by the Committee on Apportionment till they can obtain these returns for a basis of action. Notwithstanding it may be expensive, yet, because it is a matter of the first importance, I shall be constrained to vote for the substitute of the gentleman from Waubonse (Mr. Ross).

The substitute was rejected by a division—affirmative 13, negative 26.

Mr. GREER. I accept the amendment of the gentleman from Bourbon (Mr. Griffith.)

The amendment was agreed to, and then the resolution as amended was adopted.

Resolved, That the Secretary be directed to procure, as early as possible, a printed list of the members of this Convention, together with the names of the counties they represent, their Post Office, place of nativity, age, profession or occupation, together with a list of the various standing committees appointed and to be appointed.

THE COMMERCIAL GAZETTE.

Mr. BLUNT submitted the following:

Resolved, That the Sergeant-at-Arms be authorized to furnish four additional copies of the *Wyandotte Commercial Gazette* for the use of each member and officer of this Convention.

Mr. BLUNT. I merely wish to state, for the information of the Convention, that I am informed by the Sergeant-at-Arms, that unless we adopt some such resolution—extend the patronage of the Convention a little more liberally toward this paper, the proprietor will not be able to sustain himself in its publication.

The resolution was adopted.

RAILROAD AND SCHOOL LANDS.

Mr. GREER offered the following resolution, and on motion of Mr. Blunt, it was referred to the committee on finance:

Resolved, That a select committee of five be appointed by the Chair, to adopt a memorial to Congress asking land grants for railroad, school and other purposes.

BASIS OF ACTION.

Mr. THACHER submitted the following:

Resolved, That the roll of the Convention be called, and that each member, as his name is called, name the Constitution—State or Territorial—which he prefers as a basis for this Convention to act upon. That if, on the call, no one Constitution has a majority over all others, that the roll be again called, and the members confine their responses to one of those Constitutions having the highest number of votes; and that in case of no selec-

tion, the members vote again, to be confined to the two Constitutions having the highest number of votes.

The PRESIDENT. The resolution is out of order because it interferes with the regular order of business by requiring that the roll shall be called now.

Mr. THACHER. I propose to amend the resolution so as to read that the roll be called whenever it is in order.

Mr. SLOUGH. Mr. President, there is an important question that suggests itself in connection with this decision of the Chair, which may cause considerable trouble unless it is settled now. I am satisfied that the Chair is in error in its decision; and for the purpose of having the matter before us, I move that we proceed now to call the roll for the choice of the Constitutions. If the legitimate consequence of offering a resolution coming [*XX] in the shape of a call of the roll is to throw it out *of order, it is manifest that we cannot even call the yeas and nays without interfering with the order of business. It seems to me that it must be apparent to every mind that if we can call the yeas and nays legitimately, we can proceed to take the vote indicated in the gentleman's resolution.

The PRESIDENT. The Chair appreciates the kindness of the gentlemen, but yet he is under no embarrassment at all. The Chair had no reference to the call of the House, as the gentlemen think, nor would the Chair object to a call of the yeas and nays. But the phrase in the resolution contemplates the introduction of business which could not come in without interfering with the order of business at this time. The Convention has adopted the rules and order of business of the House of Representatives of the last Territorial Legislature, which admit of no interruption unless they can be suspended. A motion was made to go into this matter of a selection of a Constitution, which the Chair overruled, and the Convention proceeded with the regular business, which was the introduction of resolutions. The Chair stated that the resolution was in order, provided the vote for the choice of a Constitution could be thrown beyond the regular morning business.

Mr. SLOUGH. I insist on an appeal from that decision.

The House divided on the question of appeal, and the vote stood—affirmative 18, negative 21. So the decision of the Chair was not sustained.

The PRESIDENT. The Chair will hereafter admit all resolutions of whatever character in their regular order. This vote will work a change in the order of business to that extent.

Mr. WRIGLEY proposed to amend the resolution by striking out the word territorial.

Mr. THACHER. Some gentlemen may desire to vote for the Topeka Constitution, and for that purpose I inserted it. Some gentlemen may, perhaps, wish to vote for the Lecompton Constitution.

The amendment was agreed to.

Mr. ARTHUR proposed to strike out the word State, which was also agreed to.

The resolution as thus amended was adopted, and the Convention proceeded to fill the blank by ballot, with the following results:

On the first ballot Ohio received 13 votes, Indiana 12, Kentucky 6, Leavenworth 5, Topeka 3, Pennsylvania 2, Iowa 2, Wisconsin 2, Massachusetts, Michigan, Maine, Minnesota, and Oregon 1 each.

On the second ballot Ohio received 25 votes, Indiana 23, and Kentucky 1.

So the Constitution of Ohio, having received a majority, was declared to be the proposed basis.

NO SMOKING.

Mr. HUTCHINSON submitted the following, which was adopted:

Resolved, That no smoking shall be allowed in this Hall, either within or without the bar, and that the Sergeant-at-Arms be instructed to strictly enforce this rule.

REPORTS TO BE PRINTED.

Mr. WRIGLEY submitted the following, which was adopted:

Resolved, That the several committees to frame a Constitution are hereby authorized and instructed, at the time they make their several reports to the Convention, to furnish each member of the Convention with printed copies of their reports.

MEMORIAL OF S. N. WOOD AND H. J. ESPY.

Mr. GREER, from a majority of the committee on Credentials, submitted the following:

The committee having considered the matter of the memorial of S. N. Wood and H. J. Espy, claiming seats in this Convention from the counties of Chase and Morris, desire to submit the following report.

Your committee find that the act of the Legislature providing for this Convention, in establishing the several districts for members [*XXI] *thereof, include the counties of Chase, Morris, Osage and Breckenridge in one and the same district—said district so constituted being entitled to send two delegates to this Convention, and that Messrs. J. M. Winchell and Wm. McCullough have been admitted to seats as delegates from said counties, having certificates of election from the Executive of the Territory.

Your committee therefore feel constrained, under the circumstances, to report adversely to the claims of said memorialists.

J. P. GREER, R. GRAHAM,
W. R. GRIFFITH, B. F. SIMPSON,
S. A. KINGMAN.

Mr. SLOUGH, from the same committee, submitted the following minority report:

The undersigned, a minority of the committee on Credentials, on the application of Messrs. Wood and Espy, claiming to have been elected in the counties of Morris and Chase as members of the Constitutional Convention for admission to membership thereof, report:

1st. That the Constitutional Convention Bill does not provide in its apportionment for the counties of Morris and Chase.

2d. They find, upon examining the journals of the Legislature, that at the time of the passage of the Constitutional Convention act, there was no such county as Wise in Kansas Territory.

3d. That the act creating the county of Chase, according to the journals of the Legislature, was approved by the Governor on the third day of February, 1859, and the name of the county of Wise was changed to Morris on the eleventh day of February, 1859, that afterwards, upon the same day, the Convention act became a law.

That consequently, neither Morris nor Chase could legally vote in the 17th or any other district.

4th. They find that Morris and Chase counties are now entirely un-

represented in the Convention, and will be virtually disfranchised unless one or both of said applicants are admitted to seats in the Convention.

5th. We find that at the election held on the 7th day of June, A. D. 1859 the voters of Morris and Chase counties met at their usual places of holding elections, and voted for two delegates to this Convention, and that said election and returns appear to have all the forms of law; that at said election for delegates to this Convention in said counties of Morris and Chase:

S. N. Wood received	159	votes.
H. J. Espy "	145	"
J. M. Winchell "	5	"
Wm. McCullough received	5	"

That, according to said returns, Messrs. Wood and Espy were duly elected members of this Convention from said counties. We therefore recommend the passage of the following resolution:

Resolved, That Messrs. S. N. Wood and H. J. Espy be admitted to seats in this Convention from Morris and Chase counties with all the rights of members of this Convention.

JOHN P. SLOUGH,
C. B. MCCLELLAND.

Mr. STINSON. Mr. President, I move the adoption of the minority report, and that Messrs. Wood and Espy be heard at the bar of the Convention.

Mr. THACHER proposed to substitute "majority" for "minority."

Mr. ROSS. Mr. President, I hope the question will not be put in that shape. I propose to amend the amendment by modifying the motion so as to adopt the report of the majority of the committee, and cut off the balance.

Mr. SLOUGH. Mr. President, I presume that the argument upon the principles involved in this, as well as the Wyandotte case, might as well come up at this time, and for that I take the floor. It may be, in view of the [*XXII] facts the minority of the Committee on Credentials have *reported in these two cases of those claiming seats from Wyandotte and those from Morris and Chase—that the same argument can be made to apply to both cases.

The facts presented in these reports—and which we think justifiable by the records—show conclusively, that, under the law under which this Convention assumes to convene, the counties of Wyandotte, and those two counties in Southern Kansas formed out of Weller, &c., remain unrepresented on this floor. This is the basis of the argument. All must concede that, if the proposition I lay down as a foundation is true—that, if these people are without a representative here, their rights have been violated. But gentlemen shield themselves behind the law which does not provide them a representation.

There are a few prominent considerations, and but a few, to be taken in the solution of this matter. And to strike at once at the root of the matter, I lay it down as a proposition, that the Legislature of the Territory of Kansas had no right, either directly or indirectly, to disfranchise any portion of this people. It was not competent for the Legislature so to act, for if you accord to them the power to disfranchise one portion, you accord the power to disfranchise every other portion of the Territory. But it is not competent for them to do so. It is not in the powers conferred on them by the Organic Act. The Territorial Legislature receives all its powers from that source, and that act declares that they shall have juris-

diction over all rightful subjects. I submit that, if we adopt this rule of the right of disfranchisement, and we should make a Constitution unacceptable to the people, whatever may be the complexion of the succeeding Legislature, they may proceed to disfranchise any portion of the Territory to subserve their own purposes of representation in the next Constitutional Convention.

But granting, for the sake of argument, that the Legislature had the right to disfranchise these counties, the next question is, have they so done? And here I make the Statement:—though it may be a startling one—that we are sitting here without authority of law. We are no Constitutional Convention, if we claim our seats by virtue of the act of the 11th of February last. That act of the Territorial Legislature received diverse and sundry amendments which do not appear in that which received the signatures of officers and the Territorial Governor. And, taking the other power, that which purports to be the law and was signed by the Governor is not the same matter which passed the Legislature. And so it is, that we are sitting here without authority of law, if we claim our seats in virtue of that act.

There is another question, sir, at the bottom of the whole. I hold that the people have the right to revolutionize their form of government. The people may, at any time, authorize a Convention of delegates to frame and submit a Constitution, and if the people ratify it, there is no power on earth that can prevent its force. We have a precedent for this in the history of the State of New York. The people of New York called a Constitutional Convention in violation of their then existing Constitution. The new Constitution so formed was submitted and ratified by the people, and it was held that no power on earth could question its legality.

This body, sir, is responsible, not to the Legislature, but to the people. This Convention is omnipotent—so to speak—the highest political power restricted only by the Constitution of the United States.

Then if I have started out on a just hypothesis, we have full control of the matter before us. If these people have been disfranchised we can say to those gentlemen, (Messrs. Wood and Espy), occupy your seats and serve your constituents with us; and we can admit them or any other persons having similar claims, not only to the floor and the privileges of debates, but to the right to vote.

There is another question, which it seems to me, should appeal not only to the reason, but to the sensibilities of members. Let gentlemen [*XXIII] *put the question to themselves. There is not a man here—there is not a man amongst our constituents who would not feel as the people of Morris and Chase feel, if they had been omitted and deprived of a representation here—that would not feel that they had a right to be represented on this floor, and that would not come here and claim that right. A principle is involved in this question which is above all others in the bill of rights—it is the principle which led to the formation of the government under which we now live and prosper. It has been but a few days since we all united in celebrating the anniversary of an event that will live as long as time endures, and the memory of which cannot cease to rejoice the hearts of millions. What was the chief declaration of that event? It was the declaration of principle we all approve—a principle that loosened the bonds that bound our fathers to the mother government and led them to set up for themselves—it was opposition to the principle of taxation without representation. We were all united on that occasion in celebrating the triumph of this principle, and I cannot but regard with surprise the fact,

that so soon after a majority of one of the committees of this body should be willing to apply a different rule to the people of the counties of Morris and Chase, who are sustaining with us the burdens of taxation.

Mr. President, shall we ask these people to sustain a government which they are to have no voice in framing? Certainly not; and I certainly think, sir, that it cannot be necessary for me to say another word in this behalf.

Mr. BLUNT. Mr. President, I feel confident, in taking part in this discussion, that I can approach it without partisan feeling or prejudice. I come here owing no allegiance to party or sect. I come here independent—representing a constituency belonging to all parties. I have no other desire than to subserve the public interest and the welfare of the people of this Territory.

This is the fourth time in the history of Kansas that the people, through their delegates, have made an attempt at a State organization.

Three times prior to this, their labors in this direction, for some reason or many reasons, have never terminated in any good, never proved for the benefit of the Territory. And I believe it is now the wish and the desire of the masses of the people of the Territory, exclusive of those who are figuring for certain positions in political parties, that we should have a State organization, and that this Convention may frame a Constitution that will meet the wants and wishes of the people of the Territory, that will develop her resources and subserve the interests of the whole people, and in connection with which no barrier can be set up against our admission into the Union. In view of these facts, our Legislature, at their last session, provided the machinery by which the people might call a Convention to frame a Constitution for the State of Kansas. The bill for this purpose was composed of several integral parts. One provision contained in that bill was that the Convention should consist of fifty-two delegates. These delegates were apportioned among the several districts of the Territory. Another provision was, that on a certain day the people should vote for delegates to this Constitutional Convention. Another provision was, that these delegates should assemble on the 5th day of July at Wyandotte, and proceed to the formation of a State Constitution. Then again, it provided that on another given day that Constitution should be submitted to the people for their ratification. And then it further provided for the organization of the State government by the election of State officers.

Now, I hold that the people, in going into that election, have passed upon that law, and notwithstanding all that is said about the sovereignty of this Convention, I believe that law is binding in all and each of its parts. [*XXIV] *With reference to the admission of the Wyandotte delegates, there is sufficient ground outside of the law to satisfy my mind that they should not come in. The gentleman has referred to the history of this legislation, setting forth that there was no law authorizing this Convention. All that I know about it is outside of the journals of the Legislature. I know that such a law appears upon the Statute book—that the Governor has issued his proclamation and an election has been held under that law. But I am told that the bill which they claim to have passed both Houses, but which did not become a law for want of signatures, provided for the county of Leavenworth seven delegates, and for the county of Wyandotte two delegates. If gentlemen hang their argument on this fact, let them in the spirit of justice, and fairness, and honesty toward Wyandotte county, agree amongst themselves which of the delegates from Leavenworth shall step aside and make room for these two delegates. They have got the

stolen property in their own pocket. Let them disgorge, and tender to Wyandotte what in fairness and right belongs to her.

But, Mr. President, were this the only objection I could easily forego that. I could easily consent to this accession of delegates through Leavenworth. If this were the only difficulty I could extend to them the right to come in as delegates. But, as I said before, the people are desirous of bringing this matter of a State organization to a close. They feel that their rights have been disregarded and trampled upon too long, and that, too, by the same party who are seeking to bring in these delegates. That same hydra-headed monster that has been so long treading us down to the dust, appears here to-day for the purpose of annoying us, and tempting us to put our foot in it in such a manner as to make this Constitution null and void. I would be willing to extend liberally every right and courtesy we can consistent with our duty and the law creating this body; but if in a spirit of fairness and liberality we should extend to them the right to come fully with us into this work, to participate in the debates and sign the Constitution with us, what gratitude, sir, do you suppose would be extended to us in return? The Constitution would bear upon its face the evidence of illegality. It would show that this body was composed of fifty-four members, when the law has provided that it shall consist of fifty-two members; and the same gentlemen who are now clamoring for liberality and against disfranchisement, would be first to use it against our admission into the Union, because we could not come in proper form and legal manner.

I know that it is the desire of the party now administering the affairs of the Federal Government, that Kansas may be kept out of the Union, and that the Territorial government be continued; and it is for the purpose of preventing any pretext against our admission, that I propose to confine myself strictly and rigidly to the letter of the law, not only in this matter, but in every other of its provisions.

Mr. President, Let [us] lay aside every partisan feeling and local prejudice, and in the spirit of ingenuousness[1] let us give to the people a Constitution that shall be acceptable to them and honorable to our glorious constellation of States. Let us submit this instrument to the people in accordance with law, that when we present ourselves for admission we may do so in a fair and legal manner; and then, if there should be found men wishing to keep us out because we may not have the requisite 93,000 population, let the responsibility be on their own hands.

Mr. President, as I said before, I have no partisan feeling in this. I am willing that everything should be done that can be done consistent with the law. Did I not fear that it would be used as a club against us, I could acquiesce further in the wishes of gentlemen. But I conceive that our [*XXV] only safety is in con*fining ourselves to the letter of the law, and that confines us to fifty-two members. I have heard of squatter sovereignty, but I conceive that this Convention has no power to interfere with the law on the plea of squatter sovereignty. If we have the power to increase our number, we may diminish also, and we may do so *ad infinitum*. If we admit these from Wyandotte, others may come down upon us from Nebraska on the North, and the Cherokee nation on the other side. Suppose the election of delegates had been held on a different day from that presented in the law, or suppose this body had assembled and organized on the first instead of the fifth of July, could it be claimed that we were a legal body? Certainly not. I do not believe the gentlemen themselves expect these seats to be accorded. They only want to get us upon the

[1] NOTE.—See page [* 2] for correction.

record in such sort that they may make political capital out of it, may oppose our admission into the Union, or wrest a club from our hands to beat out our brains.

Mr. GRIFFITH. Mr. President, I hold in my hand a proclamation of the Governor, from which it appears that the counties of Wise, Walker, Osage and Breckenridge compose the 17th district, and that these claimants of seats (Messrs. Wood and Espy) were unsuccessful candidates in that district. If they were admitted, that district would have twice the number of delegates in this body which the law contemplates. If we are willing to set aside the law so far as to double the representation of the 17th district, we can adopt the report of the minority. I think it does not bear discussion. No person can entertain the thought of the admission of these memorialists. The record shows the facts against them clearly. The matter is too plain for discussion or mistake. If these counties were disfranchised it would be a different case. But the record shows that all four of the candidates were voted for; and these two unsuccessful candidates claim seats because Morris and Chase counties have been erected or appear under other names since the passage of the Convention act!

Mr. MCDOWELL. Before the vote is taken on this proposition, I desire to present some considerations influencing my mind to give my vote in favor of according these seats. This is a very grave question, to the consideration of which we should bring a calm, dispassionate judgment, in order that we may see its bearings clearly.

The gentleman from Anderson (Mr. Blunt) certainly very happily illustrated the proposition with which he set out—that he did not intend to view this question with the eye of a partisan, but look upon it fairly and without excitement, passion or prejudice; and before he concluded he went into a tirade against the Democratic party that was certainly unwarranted by anything said by those who had preceded him. It is not my purpose to reply to anything of that sort. I propose simply to look at the question on issue.

The first question is—Has this Convention, after its organization, any legal power or right to determine who shall be admitted as members? or are we to be governed entirely by the act of the Legislature that has called this Convention? I shall assume that the Convention act of the Legislature was properly passed. I shall assume, for the purpose of argument, that it was properly passed and signed by the President of the Council, the Speaker of the House of Representatives and by the Governor, and that to all intents and purposes it is a valid and binding law: still I claim—this being admitted—that this Convention has the right to admit those gentlemen elected for these counties, at an election honestly held, notwithstanding these counties are not embraced in the law. The only thing in the act is the taking of the preliminary step, in order to have an expression of the will of the people upon the questions whether they will have a Conven- [*XXVI] tion, and who shall repre*sent them in it. To that extent the law ought to be pursued. But when the delegates of the people come in here, the power of the Legislature over them ceases, and this body becomes a sovereign body in itself, with no other restraint, as remarked by my colleague [Mr. Slough] but the Constitution of the United States and their own oath.

Sir, what is the object of calling this Convention? This is one of the various modes by which a Territory may get a State Constitution before the Congress of the United States, in order that they may throw off their Territorial condition and gain a State Government. But this is not the only mode of effecting this object. The people might assemble in their

sovereign capacity—might adopt a Constitution—might delegate some one to take it to Washington; and if Congress, perceiving it to be republican in form, are satisfied it is the act and deed of the people presenting it, Congress has the right to admit them; and they have heretofore recognized the legality of such a proceeding by the admission thereupon of a sovereign State. I say we could have made a Constitution without any Territorial law, which we could send on by way of memorial, and if Congress saw fit they could admit us into the Union in that way. All that Congress wishes to know about it is, that the Constitution is republican in form, is the work of the people presenting it, and that the new State desires admission into the Union.

We have assembled here in this body to form a Constitution for the people of Kansas. We are their representatives. They have delegated this business to us—all those of us who have been elected under this law. These gentlemen [Messrs. Wood and Espy,] represent a particular constituency, and come here and ask for seats; and it appears from the report of this committee that their counties are in this Territory, and that they are large and populous, and have no representation on this floor. Then, if it is desirable that this Convention should frame a Constitution for the people of Kansas, in God's name, it seems to me that all the people in the Territory should be represented here. Are you going to say, sir, that the people of Wyandotte and of Southern Kansas shall not be heard on this floor?

The majority of the committee have reported, that through some mistake, Leavenworth county has received the representation that Wyandotte county ought to have, and that Wyandotte is practically represented through Leavenworth; because at the time of making out the basis of apportionment, Wyandotte county did not exist, but was considered in the apportionment. It is claimed also, that we are bound to exclude these men because this Convention act provides that the Convention shall consist of fifty-two members, and that we have no power to increase that number. If the proposition which I have advanced, that we are not limited by the Territorial act after we become organized, be true, then the argument for the latter objection has no weight at all. If that act can tie our hands in relation to the number of delegates—if the Legislature can say what we shall do after we get in here, it may also interpose in any other matter. It may even make the Constitution for us. It may say we shall have so many committees. It may say that the Constitution shall have so many articles. The reasoning of gentlemen who would exact from us the observance of such a provision of law, would lead to all such absurdities. Sir, the position is so untenable, that it seems to me no man can seriously claim it.

But it is claimed that the law under which we are assembled is not the law of the last Legislature. If that be the case, we are sitting here by the sufferance of the people. If we make a Constitution and the people [*XXVII] adopt it, well and good; and if the whole matter *has to be passed upon by the people, why not let the people be represented on this floor?

The analogies that may be drawn from a legislative body cannot be fairly brought to bear upon this Convention. A legislative body is created by a specific act. It derives all its powers from the Constitution. It has none others than the powers given and granted in that instrument. Therefore it would not do to say that, if this were a question before a legislative body we could not do what we propose and advocate. The Legislature is the creature of the organic act, and restricted by it,—whilst this body is restricted by no power but the Constitution of the United States. Is there

anything in that instrument to prohibit these claimants from taking their seats? I imagine not. Is there anything in common justice, the behests of which we ought at all times to observe—that exacts their exclusion? If you claim to represent the people, why do you refuse to allow them to be represented? Is there not something of the appearance of partisan feeling in all this? Would not the case have been a little different, if the political complexion of these delegates had been different? I submit these considerations to gentlemen who propose to act so dispassionately in the discussion of this question.

Sir, I advocate the right to seats by these men, because they are entitled to them, irrespective of their political proclivities. I care not what they are. Whenever a county comes up with a delegate that was overlooked by the act that brought us together, I shall vote for his admission. I can conceive of no other aspect in which this case can be viewed. If I am right in my first proposition of our sovereign power after organization, then it is conclusive that we have the legal right to admit these gentlemen. And if we have the legal right to admit them, there is the strongest possible reason that we ought to do so, in the fact that unless we admit them a large portion of the people of the Territory will be unrepresented in the work of the Constitution we propose to make for them. Wyandotte and other counties recently clad in the habiliments of county sovereignty, are knocking at our doors. They present certificates of judges of election showing that their delegates were elected by a majority of the voters in their counties. They show that unless they are admitted, their counties with large and intelligent populations, will have no voice upon this floor. They ask admission as a boon—a higher one they could not ask, and a slighter one we could not grant.

Mr. MAY. Mr. President, I wish to ask gentlemen to consider whether political complexions do not affect their course? Look, sir, at the Lecompton Convention. There were nineteen counties disfranchised in that Lecompton Convention. And gentlemen from these counties went up to the Governor, and the Governor told them they had been overlooked, and if they would send up their delegates he would endeavor to have them received. They went home and sent up their delegates to the Democratic Convention at Lecompton—and what was the result? They were rejected,—and there are men now upon this floor who voted against their admission. Now, sir, when the gentlemen throw out against Republicans the charge of partisanship, I would advise him to look at his own act in the past. Nevertheless I believe that Wyandotte ought to be represented, but, for my part, under the law I do not see how we can admit them. I have never seen in any Legislative body or Constitutional Convention any more members admitted than the law provided for. It is the same in all legislative bodies, and Constitutional Conventions. I do not think we have the power to increase our number above 52. I am clear in the impression, that the gentleman cannot point to the case of any deliberative body wherein such a thing has been done, either in this Territory or elsewhere. But there is one thing I am glad of, I am glad to perceive that, as a party [*XXVIII] our Democratic friends are repenting and doing their *first work over again. I think they are looking at the matter and beginning to see some of the absurdities of their conduct heretofore, and that they are now taking different ground. Although the law called the Organic Act has embraced in it the doctrine of squatter sovereignty yet it seems to me that the action of the Democratic party in Kansas has repudiated that.—

But, as I said before, I am glad they have repented, and seem to be doing their first work over again.

Mr. GRAHAM. Mr. President, I rise for the purpose of giving my knowledge of the passage of this law, and for the purpose of vindicating the character of the last Territorial Legislature, which was assaulted on this floor last Tuesday. Gross charges of corruption and fraud were made against that Legislature. Having been a member of that body, it seems to me proper that I should state how these alleged frauds were committed. Sir, I never saw a deliberative body numbering thirty-eight men, more fair, honest and upright in purpose and act, than the men of that Legislature of the Territory of Kansas, [Laughter] and when this charge was brought against this body—(which was entirely Republican)—I thought it was designed for a reflection on the Republican party.

The bill for the purpose of calling a Convention to frame a Constitution was introduced into the Legislature before the county of Wyandotte had an existence. It was then part of the county of Leavenworth. The bill, as introduced, gave to Leavenworth ten delegates.—But when afterwards the county of Wyandotte had been created—(Gov. Roberts was the member from Wyandotte)—the Convention bill had passed the Council. A similar bill in the House of Representatives had not been acted on. A Committee was raised on that bill to consider the basis of representation. That committee took the highest number of votes ever cast at any election (with the exception of the frauds at different points) for their basis, and fixed the number of delegates to the Convention at 52—288 being given as the ratio of representation. With these elements we went on and made the apportionment, which brought in the nineteen disfranchised counties. Doniphan had not enough to entitle her to five representatives, and two were stricken off and given to Wyandotte, &c. This was by way of amendment to the Council bill. The Council assented to the House amendments, except that they reduced the Wyandotte delegation to two, added one delegate to Doniphan, and struck out "Atchison" and inserted "Wyandotte" as the place of [for] holding the Convention. We in the House of Representatives at once concurred, because those were the last days of the session, and we wished to get the bill before the Gov. in time to avoid his veto. This is a plain statement, and as to the charge of fraud it is utterly preposterous. It comes with a very bad grace from these gentlemen—raising a hue and cry about fraud, when they themselves are members of the party that has inaugurated all the political frauds in the Territory. It is certain that a great fraud was practiced there, but how it came about I do not know. The bill had to go through the hands of clerks, printers and officers of both Houses. I do not charge fraud upon any man, but fraud was committed. But to bring this charge against the Republican party, who in all things in this matter have acted fairly and honorably—it comes with a very bad grace from Leavenworth.

I could state other things, Mr. President, but I prefer to throw the veil over them.

Mr. STINSON. Mr. President, I cordially agree with my friend in the admission, that a gross fraud has been perpetrated upon the people of this Territory. There can be no dispute in relation to that; and now we urge this body to rectify that fraud—to make that right which we all acknowledge to be wrong. And with what arguments are we met? We are told of the story of Lecompton. The gentleman says the Democratic party had [*XXIX] the Le*compton Convention and disfranchised nineteen counties, and now we Republicans will try our hand and disfranchise one! That is the argument legitimately. But I do not think gentlemen intend to

use it. There must be some other reason. Such reasoning might be good in a court of law—good special pleading. But, sir, here is something besides mere technicality in this question—something involving the rights of freemen. It is not the mere letter of the law that we are to look at. We are not simply to inquire, "Is it so nominated in the bond?" but we are to regard what is right, and do what we can to restore to these people their rights in the premises.

It has not been alleged that there would be any violation of law—though there might be a non-compliance—in the admission of the delegates from Wyandotte county. I hope gentlemen will not give us here the remnants of their political speeches in the canvass, but confine themselves strictly to the question. The question is this: whether or not we are willing that these gentlemen [Messrs. Wood and Espy] claiming to have been elected delegates from the counties of Morris and Chase, shall present their claims personally before the House? Once it has been refused. There has been management to exclude them. Sir, I think that, in all fairness, when men come here claiming an important privilege—(I speak from the little knowledge and experience I have)—we ought to allow them to come in personally and present their claims.

I hope the motion, in its present shape, will not prevail, because, if these men are excluded, I did not wish them to feel that they have been gagged down.

Mr. THACHER. Mr. President, I have but a word to say. Our debate has wandered from the subject legitimately before us. The question of the legitimacy of the seats for Wyandotte is not before us. The only question is as to the right of the two gentlemen claiming seats for the counties of Morris and Chase. Now, upon that question we cannot doubt. Both by the proclamation of the Governor and the law, it appears that there are four counties entitled to two members. It appears from the proclamation that four candidates were before the people of that (17th) district. Two of these had the highest number of votes, and received their certificates. The parties defeated come in here and claim to represent two out of these four counties. The proposition is so absurd to my mind, that I do not see how it can be entertained. The people have decided, not that these men, but two others already holding seats here, shall represent them.

So far as the partisan aspect of the case is concerned, gentlemen make a great mistake. The two persons claiming from down there, have always been identified not only with the Free State element, but with the strictest and rigidest sect of that element. One of them is most strenuously opposed to the so-called Democratic party,— and yet we are told that we are excluding them on party grounds. These men have always been identified with us in action and sentiment,—and so that falls to the ground.

I am willing, sir, to admit a great deal that has been said on the other side in regard to the power of this Convention. If you could convince me that there is one county in the Territory disfranchised, I should vote to admit their delegates here. But a false position has been assumed. You might as well tell me that certain wards in the city of Leavenworth were disfranchised, because their delegates here do not represent the public sentiment of those certain wards. You might as well come up and say to me that certain people in my county are disfranchised here—and that might be true in one sense—but if such argument is to have weight, what becomes of our republican institutions? I say again, if there was one disfranchised county I should vote to admit her delegates. I apprehend, [*XXX] sir, that the people of Kansas have been too *long disfranchised—too long ground down by the iron heel of oppression—too long

the victims of a foreign power, to refuse now to her own people any of the rights to which they are entitled. Said the Carthagenian conqueror to the Roman Enaus, "I have learned to pity the unfortunate," and we would be untrue to our past professions—to the great lessons that have been experimentally impressed upon our minds, did we not in this body render equal and exact justice to every community and locality in the Territory. But when people have been defeated in the popular arena, and then seek to be admitted here, I think it is asking entirely too much.

Sir, when the other case comes up, I apprehend that still stronger arguments will be found against that, than appears in this case of the counties of Morris and Chase: for when you argue for that case, you must impugn and impeach the proclamation of the Governor, the Convention law and everything connected therewith; and I apprehend gentlemen will not go so far as that.

Mr. GREER. Mr. President, I propose to confine myself to a few positions taken by gentlemen, and to the question itself. It is assumed that this Convention is omnipotent—limited only by the Constitution of the United States, and subject only to the ratification of the people. I admit that the Convention is omnipotent, but for certain purposes only. It is not so as to inherent power, but it is so as to their power derived from the people to make a Constitution. Hence, in view of this proposition—supposing the argument of gentlemen to have been well taken—there is no ground to assume that the people of any county to whom this Convention submits a Constitution, will be disfranchised ultimately. This Convention unquestionably has the power under the Constitution of the United States, to put into the Constitution to be submitted to the people of Kansas any proposition they may see fit. It is not, however, in the power of the Convention to disregard the law which has called it into being. This Convention is not a power which the people have consented to be governed by. The people cannot delegate sovereign power to a body like this. That is inherent in the people themselves. I am not ready to concede the proposition, that the people may delegate power to bind themselves without their consent.

Then so far as the omnipotence of the Convention is concerned I beg leave to differ from gentlemen. The law calling the Convention says specifically, that this body shall be composed of fifty-two members. The act of the Legislature demands obedience. When the laws are in concise language no court can question their binding force, if they are not in violation of Organic law. Then if the Convention is bound by the act calling it into existence, it can have no power to go beyond that act, so far as it is limited positively, and so far as the people have already acted upon it and accepted its provisions. Whatever power the Convention has, as against the law, must belong to that portion of the law which the people have not accepted and acted upon.

It is said by gentlemen on the other side of this question, that we are sitting here without authority of law. I hold in my hand an act passed by the last Legislative Assembly, signed and sanctioned by the Governor, and having all the sanctions to give it force that belongs to any act of the Legislative Assembly. With the leave of the Convention, I will read the certificate of the Secretary of the Territory. [Reads].

The act is in this volume (the Statutes) calling this Convention, under which the people have acted, and so far as it has been carried out the people have been governed by it, and I hold that we cannot depart from those provisions under which the people have acted.

Sir, I feel clear of any partisan prejudice in this case. I stand on high ground. Although I may be slightly Republican, I would not consent for [*XXXI] a moment to disfranchise any *portion of the people of this Territory. This is one of the grand reasons why I think these parties claiming from the counties of Morris and Chase have no right to seats on this floor. I understand from proper authority, that the basis of apportionment for this Convention is about three hundred votes. Looking at the proclamation of the Governor, which contains the returns from the counties represented here by J. M. Winchell and Wm. McCullough, I find that less than six hundred votes were cast in those counties. Then would it not be giving that portion of the Territory a double representation to admit these parties! It would most unquestionably. This is a proposition so plain that it need not be argued. Independently of this, these gentlemen (Wood and Espy) do not come here as having received a majority of the votes of that district, nor with any other pretence or thing upon which this Convention could act either justly, legally or intelligently. I reside in a remote county of the Territory, but I represent a constituency as jealous of their rights as any other people—and I will never consent to so far disfranchise my own constituents as to grant a double representation to any district represented in this body.

Much has been said, sir, and with seeming confidence—whether for the purpose of affecting the Convention or the public I do not pretend to say—but it has been urged here that a great wrong has been sustained by the counties of Morris, Chase and Wyandotte, by way of disfranchisement. This I deny. Then again, it is said, we throw them out on political grounds. This is not what I want; I hope the majority here will not be actuated by so narrow a policy as to exclude claimants from seats on purely party grounds. I do not to-day know what are the political sentiments of the gentlemen claiming seats from the counties of Chase and Morris. I am told by some that they are Republicans, by others, Democrats.

I am told, sir, that there are gentlemen from certain portions of Nebraska coming here and claiming seats. If this be so, they will certainly find themselves outside of the law calling this Convention, and my action in this case will be as strong against them as that now before us. I am told that these Nebraska claimants are about half and half—equally divided in political sentiment.

I cannot conceive of a single proposition on which these men can hang their claims.

Mr. STINSON. I move to lay the amendment of the gentlemen on the table.

Mr. PRESIDENT recognized Mr. Ross.

Mr. STINSON. I withdraw for the gentleman.

Mr. ROSS. One idea occurs to me, and that is, by the admission of these gentlemen we shall disturb the basis of representation established by the Legislature, which the Convention is not competent to do. And then, if we were to give this undue representation, to that extent we would disfranchise every other portion of the Territory.

The PRESIDENT stated the question to be on the adoption of Mr. Ross' motion to amend so as to make the proposition simply "to adopt the report of the majority of the committee."

Mr. GRAHAM demanded the yeas and nays and they were ordered, and being taken resulted—yeas 30, nays 18—as follows:

YEAS—Messrs. Arthur, Burris, N. C. Blood, Crocker, Dutton, Graham,

Greer, Griffith, Hutchinson, Hanway, Hoffman, Ingalls, Kingman, Lillie, Lamb, Middleton, May, McCullough, Preston, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, T. S. Wright, Williams, Mr. President—30.

NAYS—Messrs. Blunt, Brown, Barton, Foster, Forman, Hipple, Hubbard, Houston, McDowell, McCune, McClelland, Palmer, Parks, Slough, Stinson, Stiarwalt, J. Wright, Wrigley—18.

So the modification was agreed to; and then the motion, as amended, was adopted.

PRINTING AND REPORTING.

Mr. Ross, from the committee on Printing, Reporting, and Preservation of Records, submitted the following:

[*XXXII] *The committee on Printing respectfully report that they have contracted for the necessary printing for this Convention on terms shown in the following agreement:

I hereby agree to execute Printing for the Constitutional Convention, at one dollar per thousand ems composition, and one dollar per token for presswork—this proposition to include journal of proceedings, and all other work in newspaper or book type. Jobbing at usual rates. Payment to be made in scrip.

S. D. MACDONALD.

July 6, 1859.

In regard to the printing and preservation of the records of this Convention, your committee report the following agreement on the part of Dr. Bush, to wit:

WYANDOTTE, July 7, 1859.

COMMITTEE—*Gentlemen*—Dr. Bush authorizes me to state for him, that he will make verbatim reports of the proceedings and debates of the Constitutional Convention for the Congressional compensation for such service, *i. e.*, six dollars and twenty-five cents for every thousand words reported. He will also make the condition, that his account be placed on an equal footing with the ordinary expenses of the Convention. He will agree to keep up the reports as promptly as the body may desire them for publication, and otherwise in this matter remain subject to the order of the Convention.

Respectfully submitted,

A. E. DRAPIER.

The report was adopted, and the contracts accordingly confirmed.

Mr. DCDOWELL made an ineffectual motion to adjourn till Monday to facilitate the organization and business of the standing committees.

STANDING COMMITTEES.

The PRESIDENT announced the standing committees of the Convention.

The Convention then adjourned till to-morrow morning at 9 o'clock.

FRIDAY, July 8, 1859.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

Mr. E. MOORE, a delegate from the county of Jackson, came forward, received the oath of a member, and took his seat in the Convention.

WOOD AND ESPY.

Mr. SLOUGH presented a paper in the character of a petition and remonstrance, signed by S. N. Wood and H. J. Espy, remonstrating against the action of the Convention in their case.

The paper was being read by the secretary—

Mr. RITCHIE. Mr. President, would it be in order to move for a suspension of the reading of insulting papers?

The PRESIDENT. The paper is with the Convention.

Mr. RITCHIE. Then I move that the reading of this memorial be dispensed with.

Mr. SLOUGH. Mr. President, it seems to me to be out of order to make a motion when any matter is pending.

Mr. PRESIDENT. There is nothing pending.

Mr. SLOUGH. Could the Convention entertain a motion to interrupt the reading of a proposition to amend?

The PRESIDENT. It could.

Mr. WRIGLEY. How can the gentleman know that the paper is insulting before he hears it?

Mr. SLOUGH. I have read it through, and there is not a word in it, which, without violence, can be construed into an insult.

Mr. BLUNT. I voted yesterday against the proposition to exclude Messrs. Wood and Espy from being heard here, because I thought it due to courtesy to hear them. But, their matter having been disposed of, I think it would not be well to occupy further time about it. I shall vote to suspend the reading.

Mr. RITCHIE. The question has been asked, how I arrived at the con-
[*XXXIII] clusion that the matter *is insulting before the reading? I answer: because I consider this document emanates from a course of insults, from the commencement. I understand that this body is composed of members who have been before the people, and that they have decided that we, the fifty-two recognized members here, are the proper representatives of the people of Kansas in this Convention. The Governor, also, has so decided, by issuing his certificate of the fact; and now here comes up two of the minority candidates, who have been decently defeated, asking to take this authority out of our hands and place it in their own. Now, in behalf of the people, I hold this to be an insult, not only to us, the representatives of the people, but the people themselves. I would inquire whether every member is not satisfied that time enough has already been spent on this question, and capital enough made out of it for political effect to go into the canvass? I want it to be distinctly understood that I am not a partisan in this case. I generally commend the sentiments and doctrines that emanate from the Democratic side of the House, if there are two sides here. Their doctrines are impregnable. They are the doctrines, the sentiments of the American people, and cannot be ignored. I do not believe in the application they make of them. I am glad that, as members of this body, we are becoming so nearly allied to each other; for the Topeka Constitution emanated from the dictatorial basis which was declared here yesterday by the Democracy. To show that there is no partisan feeling in my course, I will state here that I understand that one of these memorialists is a fanatic, a negro-stealer, an abolitionist. I plead guilty myself to all these accusations, and therefore I could have no political prejudice against hearing from that side of the House.

The yeas and nays being demanded and taken, resulted—yeas 29, nays 20—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls,

Kingman, Lillie, Lamb, Middleton, May, McCullough, Preston, Porter, Ritchie, Ross, Signor, Stokes, Thacher, Townsend, Williams—29.

NAYS—Messrs. Brown, Barton, Burris, J. Blood, Foster, Forman, Hipple, Hubbard, Moore, McDowell, McCune, McClelland, Palmer, Parks, Slough, Stinson, Stiarwalt, Simpson, J. Wright, Wrigley—20.

So the reading was dispensed with.

Mr. SLOUGH moved that the paper go to the files of the Convention.

Mr. THACHER proposed to amend by rejection.

Mr. SLOUGH demanded the yeas and nays, and they were ordered, and being taken, resulted—yeas 30, nays 19—as follows:

YEAS—Messrs. Burnett, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, May, McCullough, Preston, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams—30.

NAYS—Messrs. Arthur, Blunt, Brown, Barton, Foster, Forman, Hipple, Hubbard, Moore, McDowell, McCune, McClelland, Palmer, Parks, Slough, Stinson, Stiarwalt, J. Wright, Wrigley—19.

So the amendment was agreed to and the paper rejected.

VOTE OF THE PRESIDENT.

Mr. Ross proposed the following amendment to the 6th rule, which was adopted:

"In all cases of election by the Convention, the President may vote. In other cases he shall not be required to vote, unless the Convention be equally divided, or unless his vote, if given to the minority, will make the division equal; and in case of such equal division, the question shall be lost."

SCHEDULE—SLAVES—APPORTIONMENT.

Mr. PARKS submitted the following, and moved its reference to the committee on schedule:

Resolved, That the committee on the schedule be instructed to enquire into the propriety of incorporating the following provisions in its report:

1st. That no inconvenience may arise by reason of a change from a Territorial government to a permanent State Government, it is [*XXXIV] *hereby declared that all writs, actions, prosecutions, judgments, claims, recognizances, contracts and rights, for or against individuals or corporations, shall exist and continue as if no change in the government had taken place.

2d. All fines, penalties and forfeitures due and owing to the Territory of Kansas, or to any county thereof, shall inure to the benefit of the State of Kansas, or such county of the same. All bonds issued to any officer of said Territory, or of any county thereof, in his official capacity, shall pass over to the officer performing the same or similar duties in the State of Kansas, or to such county of the same.

3d. All suits, pleas, plaints and other proceedings now pending in, and all books, papers, records and other documents belonging to any court of the Territory of Kansas, or of any county thereof, shall be respectively transferred to the courts performing the same or similar duties established by the authority of this Constitution.

4th. All laws and parts of laws now in force in the Territory of Kansas, and not inconsistent with the provisions of this Constitution, shall continue and remain in full force and effect, until they expire by their own

limitation or are repealed or altered by the General Assembly, under the authority of this Constitution.

5th. All officers of this Territory now holding commissions from the United States, or from the said Territory, shall continue to hold and perform the duties of their respective offices, until they are superseded, under the authority of this Constitution; and all such officers shall receive the same compensation for their services from the State of Kansas, for the time they may so serve, as they do respectively from the United States or from the said Territory.

6th. The Governor of the State shall use a private seal until a State seal be procured.

7th. For the purpose of taking the vote of the electors of this Territory for the ratification or rejection of this Constitution, an election shall be held in the various precincts of this Territory on the first Tuesday of November, 1859, which election shall be conducted in all respects according to the provisions of an act of the last Territorial Legislature, entitled "An act providing for the formation of a Constitution and State Government for the State of Kansas." Approved February, 1858.

8th. Each elector shall express his assent or dissent to this Constitution, by voting a written or printed ballot labelled, "For the Constitution," or "Against the Constitution."

9th. If a majority of all the votes cast for or against the Constitution, shall be given in favor of this Constitution, then the same shall be deemed to be accepted by the people of the State, and shall take effect accordingly; but if a majority of such votes be against this Constitution, then the same shall be deemed to be rejected by the people of the Territory, and shall be null and void.

10th. In the event that the electors of this State, shall decide in favor of this Constitution, according to the preceding sections, then section ———— of the Bill of Rights shall be suspended in its operation, as to slaves in the Territory at the time this Constitution shall be ratified as aforesaid, for the space of twelve months from the day of said election; that is to say, until the ———— day of November, 1860, when the same shall be revived, and shall remain and continue in full force and effect forever.

11th. The Governor of this Territory shall issue his proclamation, not more than thirty days after said election, in which he shall announce the result of the same, and in the event that electors have decided in favor of this Constitution, he shall, by proclamation, at the same time, order an election to be held at the various voting precincts in said Territory of Kansas, on the first Tuesday of January, 1860, to be conducted, in all respects, [*XXXV] according to the provisions of said act of the *Territorial Legislature, approved February, 1859, for the election of a Governor, Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, Attorney General and Superintendent of Common Schools, and for members of the General Assembly, as provided in this Constitution, and also a Representative in the Congress of the United States.

12th. Until an enumeration of the inhabitants of the State of Kansas shall be made, according to the provisions of this Constitution, the county of Doniphan shall elect one Senator and three Representatives; Atchison shall elect one Senator and three Representatives; Brown, Nemaha, Marshall and Washington, one Senator; Brown, one Representative; Nemaha, one Representative; Marshall and Washington, one Representative; Jefferson, Jackson and Pottawatomie, one Senator and one Representative each; Leavenworth, two Senators and six Representatives; Riley, Clay, Davis, Dickinson, Morris and Waubonse, one Senator; Riley, Clay, Davis

and Dickinson, two Representatives; Morris and Waubonse, one Representative; Shawnee, one Senator and two Representatives; Douglas, one Senator and four Representatives; Wyandotte and Johnson, one Senator; Wyandotte, one Representative; Johnson, two Representatives; Lykins and Franklin, one Senator; Lykins, two Representatives; Franklin, one Representative; Chase, Madison, Breckenridge and Osage, one Senator; Chase, Breckenridge and Osage, two Representatives; Madison, one Representative; Linn, Bourbon and McGee, one Senator; Linn, one Representative; Anderson, Allen, Dorn, Wilson and Godfrey, one Senator; Anderson, one Representative; Allen, Dorn, Wilson and Godfrey, two Representatives; Coffey, Woodson, Greenwood, Butler and Hunter, one Senator; Coffey, two Representatives; Woodson, Greenwood and Butler, one Representative.

13th. Upon official information having been received by the Governor elect that the State of Kansas has been admitted as one of the sovereign States of this Union under this Constitution, he shall, by proclamation, convene the members of the General Assembly at Lecompton, by at least thirty days' notice, to be published in one paper in each county, if there be one. Said General Assembly shall proceed to elect two United States Senators in Congress, shall provide for the early election of all necessary State and county officers by the people, and shall make such other provisions as may be necessary to the early and complete organization of a State government.

14th. The seat of government shall be fixed at Leavenworth, until the second meeting of the General Assembly, which shall have power to fix the permanent seat of government. The first meeting of the General Assembly shall fix the compensation of the members thereof, anything in this Constitution to the contrary notwithstanding.

15th. The oath of office herein directed to be taken, may be administered by any judge or justice of the peace, until the General Assembly shall otherwise direct.

16th. In the event that this Constitution is approved and accepted by the electors of the Territory as hereinbefore provided, one copy of the same, authenticated by the President and Secretary of this Convention, shall be transmitted by the hands, of a sworn messenger, to the President of the United States, with the respectful request that he present the same to the Senate; another copy authenticated as aforesaid, to the delegate from Kansas, with the respectful request that he present the same to the House of Representatives, and a memorial drawn by a committee of the members of this Convention and approved by this Convention, asking our admission into the Union under this Constitution, as an independent and sovereign State.

On motion by Mr. Ross, the resolution was laid on the table.

[*XXXVI] *FREE NEGROES.

Mr. SLOUGH offered the following, which was referred to the committee on Preamble and Bill of Rights.

Resolved, That the committee on Preamble and Bill of Rights be instructed to inquire into the expediency of incorporating in their report a provision against the future settlement in Kansas of free negroes.

KANSAS CLAIMS.

Mr. SLOUGH offered the following, which was referred to the committee on Ordinance:

Resolved, That the committee on Ordinance be instructed to inquire into the expediency of reporting a petition favorable to the payment of claims

reported by the Claim Commissioners appointed under the act passed by the Territorial Legislature in 1859, by the National Government, either in money or a grant of land.

Mr. BROWN, of Leavenworth, offered the following, which was adopted:

Resolved, That it shall be the duty of the committee on Printing or a majority thereof, to examine daily, or as often as they may deem necessary, the accounts of said printer, as also the account of printing actually done and returned, as the work progresses, and to keep a book or books in which they shall enter all necessary particulars with their comparisons and calculations, together with all data on which their calculations may be based, and it shall be the duty of the printer whose proposals are accepted, to afford either by himself or foreman, all due facility for carrying out the object of this resolution.

WYANDOTTE REPRESENTATION.

Mr. GREER, from the committee on Credentials, submitted the following:

The committee on Credentials to whom was referred the claim of Messrs. Bennett and Welborn to seats on this floor as delegates from Wyandotte, with instructions to hear the claimants by themselves or counsel, have had the same under consideration, and beg leave to submit the following report:

Your committee having given due notice of the time and place of meeting met at the time and place designated, to hear the claimants by themselves or counsel. No appearance was made. Your committee made no comment upon this manifest intention on the part of the claimants to trifle with the Convention, and delay its action, because the reasons are patent and obvious.

To prevent the further useless waste of time in this Convention—the unnecessary delay of business, and the prolongation of the session, your committee recommend the adoption of the following resolution:

Resolved, That this Convention rescind the resolution permitting the claimants, Messrs. Bennett and Welborn, to appear before this Convention by counsel.

Resolved, That the claimants, Messrs. Bennett and Welborn, are not entitled to seats in this Convention.

J. P. GREER, WM. R. GRIFFITH,
ROBERT GRAHAM, B. F. SIMPSON,
S. A. KINGMAN.

The yeas and nays were demanded and taken on this question, resulting —yeas 33, nays 18—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, N. C. Blood, J. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, May, McCullough, Preston, Palmer, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams, Mr. President—33.

NAYS—Messrs. Brown, Barton, Foster, Forman, Hipple, Hubbard, Moore, McDowell, McCune, McClelland, Perry, Parks, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—18.

So the report was accepted.

Mr. KINGMAN. I now move the adoption of the two resolutions reported.

Mr. SLOUGH. I move to amend by striking out the first resolution. I

make this motion to strike out, Mr. President, for the reason that I believe it is beyond the power of the Convention to reach this matter at this [*XXXVII] time. It will *be remembered that two days ago upon my motion the privilege was granted to these gentlemen to be heard by counsel at the bar of the Convention. Afterwards, the same day, a motion to reconsider that vote was made and lost. According to parliamentary usage no other motion to reconsider can be entertained, and so we cannot legally pass this resolution to rescind that order.

The amendment was rejected; and then the resolutions reported by the committee were adopted.

Mr. GRIFFITH submitted the following:

Resolved, That Messrs. Bennett and Welborn be admitted to seats on this floor, and the privilege extended to them of participating in the proceedings of the Convention, so far as to make motions and participate in the discussions, but not to vote.

Mr. GRIFFITH. I wish to state, that we regard this an unfortunate affair that the county of Wyandotte was overlooked in the Constitutional bill. It is known that Leavenworth county has the number of representatives intended for Leavenworth and Wyandotte. But to show to the Convention our willingness to extend to these gentlemen all the courtesy in our power, and to give Wyandotte as direct a representation as possible, we move this resolution, and we propose to call the yeas and nays on the vote.

Mr. WRIGLEY proposed to amend by striking out all after the word "resolved," and inserting the following words:

"That the Wyandotte county delegates be admitted to all the rights and privileges of other delegates upon this floor."

The PRESIDENT. The Chair will rule the amendment out of order.

Mr. SLOUGH. I appeal from the decision of the Chair, and demand the yeas and nays; which being ordered and taken resulted—yeas 33, nays 18—as follows:

YEAS—Messrs. Arthur, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, May, McCullough, Preston, Palmer, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams, Mr. President—33.

NAYS—Messrs. Brown, Barton, Foster, Forman, Hipple, Hubbard, Moore, McDowell, McCune, McClelland, Perry, Parks, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—18.

So the decision of the Chair was sustained and stands as the judgment of the House.

Mr. GRAHAM. Mr. President, I shall vote against this resolution, because this courtesy has been already proposed to be extended to these parties, and they have refused it.

Mr. BLUNT. Mr. President, this question has already occupied too much time. It is very evident, from the disposition manifested on the other side, that they intend to vex us, and if possible induce us to commit some error by which we may place ourselves outside of the law. I think we have already attached too much importance to the matter involving the Wyandotte question, and that of the counties of Chase and Morris, particularly the latter. The case of Wyandotte, however, is one of peculiar interest; but as for the case from Chase and Morris, I conceive that they have no show of right. However, I was willing to extend all the courtesy

we could. Their matter was disposed of yesterday—finally disposed of: and yet they thrust themselves again upon the Convention in a manner that I conceive to be insulting, and I felt constrained to vote against the reading and filing of their communication.

We are disposed to extend to the gentlemen claiming seats from Wyandotte county all the courtesy we can consistently with the law creating the Convention. If they are not disposed to accept, it is no fault of ours, and it will be a matter with them and the people of Wyandotte county to settle. If they refuse to come in and look after the interests of their con- [*XXXVIII] stituents, and *accept of all the indulgence we can legally tender to them, it is no fault of ours, and the responsibility must rest on their own heads. I hope the resolution of the gentleman from Bourbon will prevail.

Mr. MCDOWELL. Mr. President, I shall vote against the proposition of the gentleman from Bourbon. I am one of those believing that these delegates have as much right here as any on this floor; and I for one do not propose to insult them by saying they may come in and speak, but not vote.

The gentleman from Douglas yesterday admonished the Convention, that this Wyandotte case differed materially from the other. I understood him to say that he agreed with me upon the question of the legal power of the Convention to admit these gentlemen, and that their claims were different altogether. But to-day this report is offered, and hurried through the Convention without one word of remonstrance from that gentleman. And now, having ignored their right to seats—disfranchised the county of Wyandotte, it is proposed to insult her people by compromising in a way that is practically giving them no representation.

I call upon gentlemen to consider one moment what they do. Sir, why do you offer them seats if it is not upon their acknowledged rights, or upon some claim of right? If there were not some show of right, you would not offer them empty honors. Then if there is a claim of right, let us look at its extent. How far does it go? They are here duly elected members from Wyandotte county. They come here with the certificates of the judges of election, stating that they have been elected—have been voted for by the majority. They come up, it is true, without the certificate of the Governor—and gentlemen seem to make a point on that. They claim the right to exclude them because the signature of the Governor and the great seal of the Territory has not been attached to their certificates. Sir, the powers of the Governor, in this direction, are fixed by the act calling the Convention. His powers are limited by that act, but ours are not. All the facts are before the Convention. When the Convention votes to exclude these parties, it does so with knowledge of the facts that they were elected fairly—that a contest was had—that one of the Republican candidates defeated was Governor Roberts, one of the first men in the Territory. With these facts staring them full in the face, have this Convention ignored the rights of these parties? For one, I protest against it.

Some other gentlemen have claimed the right to exclude those delegates, because, they say Wyandotte is practically represented on this floor. They charge that Leavenworth has the stolen goods, and that she ought to disgorge, &c. Sir, I repel that charge. Leavenworth comes here not with a full representation, as she is entitled [to] under the ratio adopted. She polls over 3,000 votes, and those would entitle her to more than the ten delegates she has,—Leavenworth county polled more than one-fourth of the whole number of votes in the Territory. Wyandotte, with her large and

intelligent population, is without a representation on this floor. In the name of simple justice, I ask that the Convention shall not disregard the rights of these people. We are making a Constitution for the people—we are to propose it to be adopted by the people, and thereupon to go into the Union as a great State: What then is fairer than that the whole people should participate in making this instrument, under which they are to live, and by which they are to be bound? This county has important interests, which should not be overlooked by the Convention, and their delegates, it seems to me, should be allowed to vote.

I have said that I do not regard this case as a partisan. I would, for all such purposes vote for the admission of members of any political faith under similar circumstances. And if gentlemen propose to shield themselves; behind the quibble of a defective act, allowing only [*XXXIX] *fifty-two members of the body, I tell them, that the people of this Territory will not be misrepresented in that way. Once more, then, on behalf of those who have no right here to speak for themselves, I protest against this insult.

Mr. SLOUGH. Mr. President, I vote against the resolution, because I am unwilling to compromise the rights of Wyandotte county.

Mr. HOUSTON. Mr. President, it was not my purpose to participate in this debate; but there is a great question connected with it—nothing less than the question of the admission of Kansas into the Union—and for that reason I cannot let it pass silently. I say this matter involves the question whether we shall get into the Union. There is not a man connected with this body who understands all the complications, contingencies, uncertainties and wire-working connected with the political machinery of this government, and no man can pretend to say what advantages may be taken. There is no man here more willing than I am to concede the right of the members from Wyandotte to seats. In other words, there is no man more ready to concede that this Convention has the undoubted power to admit these gentlemen to seats, if they saw proper to do so.—But I regret that it should be attempted to make political capital out of this matter.

Let us look at it. If we concede the right to admit, then it is a question of mere policy.—We have had a number of State Constitutions made for us from time to time. We have had difficulty after difficulty in connection with them. We have been branded as a lawless people. We know that in this Territory there is less respect paid to law than in the older settled portions of the country; and this, if it is not right, has its justification. In some respects we are in advance of the people of the Eastern States. We are in advance of them in the knowledge and appreciation of human rights, and I rejoice at it. But at the same time, Mr. President, if you allow these gentlemen to come in as full members, what would be the result? It would open a gap through which politicians might come in and work the defeat of this Constitution. I know that it is not the wish of the majority of the Convention to curtail a single civil right, but at the same time they want to get into the Union. We are unwilling to put in jeopardy the interests of this Territory. The time is coming when we shall cease from fooling. We had perhaps better be a little unjust than defeat this Constitution. The people wish to be settled in a State Government, and we should do nothing to defeat that object. While I concede that the Convention has the right to admit, I am sorry that its political complexion is such that we cannot take a broader and higher ground. But, as it is, I think, on the score of policy, the better plan is not to place ourselves in a position that can work the rejection of Kansas, and throw her admission beyond the Presidential canvass.

I regret that our friends on the other side are driven to the necessity of seeming to be determined to make their continuous assaults upon us as a party. They have found themselves in the minority, and seem determined to make the most of it—hanging between, and taking either way—not seeming to care for anything but to make the most votes.

I do not think I ought to prolong this debate. I shall give my vote for the resolution, which I think would be the voice of my constituents: for we all think the time has come when no ingredient or element of mischief should be introduced into our civil affairs that might give to political wire-workers opportunity to defeat great public interests.

Mr. RITCHIE. Mr. President, this question is a very plain and simple one. At the time the districting was made, Wyandotte and Leavenworth were one and the same county. Therefore, when the apportionment was made it was for the representation of that whole territory; and the ten delegates from Leavenworth are here to-day, acting as much for the 500 [*XL] voters in the county of Wyandotte as for those who *cast their votes for them in Leavenworth county. I believe in the intelligence of the people—that the people will see through this matter.

I understand the gentleman on my right. I allege that he represents only the county and city of Leavenworth. But, sir, if he is governed by that noble principle which he threw out yesterday—the democratic principle—he is here to-day to represent Wyandotte interests as much as those of Leavenworth; and I hope to see him extend himself and take Arapahoe into his representative care. I come here feeling like Frank Pierce, that I am to be "spread out" over the whole Territory of Kansas, and not concentrated upon one single locality. And I hope we are all here, not merely to represent Leavenworth, or Shawnee, or Douglas, but to represent the interests of the Territory of Kansas and support the principles of republicanism all over the world.

I think, sir, we have spent time enough in this way. Every vote on this question has shown the will of the convention, and still the minority views are pressed upon us. I want to direct the attention of the body to the fact, that Republicans are in the majority here, and they are responsible for this delay. It is expected of us to act economically—not spending the money of the people through an extravagant waste of time. One of the most effective charges against the present national administration is its extravagance. Then inasmuch as we have come up here for the first time as Republicans, we should commence retrenchment and reform in earnest. I want to get through this work in another week. The people are not expecting to be kept out of the Union on account of the forms of law. We were not the first to take the position that we must come in, if we come in at all, under the forms of law. I am not going to deviate from that text. I am for getting into the Union. I am going to stick to the text. It has been the policy of Democrats here, if I understand them, to throw us out of the forms of law. If I had been here, sir, in 1856, I would have taken them by the hand and led them on. But I was not. I am glad to see our Democratic friends coming in and endorsing the efforts that have been put forth in behalf of freedom in Kansas. It is my opinion that the Democratic party will soon be in the lead of the Republicans in this direction. I think they will steal your thunder, sir, if you do not watch them. [Laughter.]

I want it distinctly understood that my feeling toward the Leavenworth delegation is this: I live at Topeka, and there is a different interest at Auburn from that of Topeka; but I think I feel as much called upon to

represent the former as the latter, though my competitor, of course, thought he could do better than I.—I feel as deeply responsible here for the representation of Auburn as for that of my own locality, and I hope that is the feeling of my friends on the right.

Mr. GRAHAM. Mr. President, my friend (Mr. McDowell) with great dignity repels the charge that they have stolen property in Leavenworth. To repel the charge, he says Leavenworth polls 3000 votes, and the ratio was 288. My friend is mistaken. He must remember that this apportionment was made in the month of January last, in Lawrence—before they voted in Leavenworth. How could the Legislature estimate upon votes that had not been cast? We found that Leavenworth had been polling 1900 votes, and we gave them a representation for that number. But after the work passed out of our hands, by hook or crook, outside of the Legislature, they got by law ten members. I do not think my friend would have referred to that if he had considered it. How could we have anticipated the increase of voters in such a city as Leavenworth? Or how know the number of emigrants who come in there from Platte County to vote?—[Laughter.]

Mr. WRIGLEY. Mr. President, I have not participated in this debate, but [*XLI] the desire I have that the Convention take just action in *this matter induces me to offer a few remarks. The gentleman from Shawnee, [Mr. Ritchie] says we are pressing this matter upon the Convention, after the body had indicated its judgment time and again. It is true, sir, we are pressing this question, and I trust the minority here never will hesitate to press the right before the Convention at any time. We believe ourselves right, and therefore press.

What is the history of this question? At the time of the preliminary organization these gentlemen from Wyandotte presented certificates that indicated their election. These certificates were rejected, and they were refused all participation in the preliminary organization. A committee was appointed to whom the case was referred. They appeared before that committee with their documents, and called upon them to report in their favor. There were two reports. The majority reported against their rights to seats. Then it was asked for them the poor privilege of a prisoner at the bar—the privilege of a hearing by attorney. The Convention granted it. Subsequently, a motion to reconsider this grant was lost, and that, Mr. President, closed the question—bound us to the order to admit the right of hearing by attorney beyond all quibble. What was then done? When the time came for their appearance here the subject was again referred with liberty for the contestants to appear by attorney, before the Committee. But the contestants did not desire to appear again before a Committee which had once heard and considered their case and reported against them. They desire to appear before the Convention, and they are here this morning by attorney, with documents to prove beyond controversy that they are entitled to seats here; and still, sir, you withhold from them the privilege you have granted to them beyond recall. Why do you do this?

One gentleman says it is a mere matter of policy! And it was said, yesterday, that there was fraud in this matter of the disfranchisement of Wyandotte, and an excuse was offered for the Legislature.

Sir, by what authority is it that this Convention denies to these parties the privilege of a hearing? I demand the privilege which the Convention has granted to them. It is a poor privilege. It would be extended to any prisoner at the bar. No man, even though he were guilty of a dark crime, could be denied a hearing. We demand then the right which the

Convention has granted—and why is it refused? Oh, a mere matter of policy. We wish to save time, we wish retrenchment and reform. The gentleman from Shawnee alleges this, and adds that the principal objection to the present Democratic administration is its extravagance. Sir, I do not know that the Republican party in this Territory have ever distinguished themselves for retrenchment.

The PRESIDENT (interrupting). This debate is taking too great license. The question is, on the admission of these gentlemen to honorary seats on this floor.

Mr. WRIGLEY. I shall vote against the resolution, because I believe they are either entitled to seats or not entitled. I believe, if they have been elected by the people, that they should be admitted to full membership. I believe it is honestly due to them to invite them to a full share in our deliberations. I believe that every portion of the people of the Territory are entitled to a representation here, whether they are in the Convention Act or not. Therefore, I shall vote against the resolution giving them these empty honors. I say, give them seats with all the rights and privileges of delegates, or give them nothing. More than this is simply adding insult to injury. The Convention has the power. It is the right of these parties. Why deny that right by such a frivolous objection as that it would contravene the law? This Convention is not bound by the law. I am in favor of departing from the provisions of the Convention law in regard to the time of holding the election for State officers.

[*XLII] The PRESIDENT. The Chair must insist that *the gentleman confine himself to the question.

Mr. WRIGLEY. I wish to show that the Convention ought not to insult these gentlemen by tendering them honorary seats.

The PRESIDENT. That has been decided. The question now before the Convention involves no principle of law.

Mr. WRIGLEY. I have a right to explain the reason why I shall vote against the resolution. And is it not a good reason, that you propose to confer empty honors on men entitled to full membership?

The PRESIDENT. There is no question of law in it.

Mr. KINGMAN. Mr. President, I shall vote for the resolution. And I wish to disclaim, in advance, that I do not vote for it as an insult. I am very clear that there is nothing in the language of the resolution that is in the slightest degree insulting, either to these gentlemen or the respectable constituencies they represent.

I think, sir, this matter has occupied too much time. The majority must be held responsible for delays. I think it is time we should go to business. I demand the previous question.

There being a second—

Mr. SLOUGH demanded the yeas and nays on the main question, viz: the adoption of Mr. Griffith's resolution, which, being ordered and taken, resulted—yeas 25—nays 25, as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Griffith, Hanway, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Porter, Ritchie, Signor, Stokes, Thacher, Townsend, Williams, Mr. President—25.

NAYS—Messrs. Brown, Barton, Dutton, Foster, Forman, Graham, Greer, Hipple, Hubbard, Hutchinson, Hoffman, May, Moore, McDowell, McCune,

McClelland, Palmer, Perry, Parks, Ross, Slough, Stinson, Stiarwalt, Simpson, J. Wright, Wrigley, T. S. Wright—25.

The following explanations were admitted, under the rule, to the Secretary's journal:

Mr. PARKS. Mr. President, believing as I do, that the gentlemen claiming seats in this Convention from Wyandotte county are entitled to full membership upon this floor, and that the Convention has full power to admit them to such membership, I cannot vote for these gentlemen having mere *nominal and personal* privileges, and thus disfranchise the people of a large and populous county of this Territory.

Mr. BLUNT. I vote for the resolution, because I believe it is as far as the privileges of this body can be extended to the claimants from Wyandotte county wtihout a dangerous violation of the law creating the Convention.

Mr. GRAHAM and Mr. MAY. We desire to explain our vote by saying that the courtesy having been once extended and refused, we are opposed to extending it again.

Mr. GREER. I vote no, for the reason that I deem it out of order to admit members through courtesy.

Mr. HUTCHINSON. I vote against admitting the gentlemen claiming seats from Wyandotte, because I believe the members of the Convention are bound strictly by the law, and cannot transcend it in this instance more than any other.

Mr. THACHER. The county of Wyandotte is now essentially represented by the members from Leavenworth county, and an admission of them to the privilege of voting would be an injustice to the people of Kansas.

Mr. ROSS. I vote against the resolution, because I consider the gentlemen claiming seats from Wyandotte county have no legal right to those seats.

Messrs. SLOUGH, WRIGLEY, HUBBARD, STIARWALT, HIPPLE, FORMAN, MCCLELLAND, WRIGHT, MCDOWELL, MOORE and BROWN. We vote against the resolution, because we are unwilling to compromise the rights of the people of Wyandotte county.

Mr. BARTON. I vote no, for the reason that I am not willing to offer an [*XLIII] insult to the citi*zens of Wyandotte, by offering only a part of the privileges of this House to the legally elected representatives.

Mr. BURRIS. I vote yea, for the reason that I am desirous to extend all the courtesy to those gentlemen consistent with the law and what I conceive to be right, being clearly of opinion that these claimants have no right upon this floor as delegates. I am in favor of allowing them to sit in Convention with the privilege of speaking, only as a matter of courtesy, and not as a matter of right.

Mr. BLUNT. Mr. President, I vote for the proposition above, for the following reasons:

The law calling this Convention into existence calls for the election of but fifty-two members, and that in the apportionment for these members the population of what is now included in Wyandotte county was then included in the apportionment for Leavenworth and Johnson counties, therefore the ten delegates from Leavenworth and the two delegates from Johnson county, by their votes, represented the county of Wyandotte in this Convention.

But inasmuch as the said delegates from Leavenworth and Johnson, representing Wyandotte by their votes, are not actual residents of Wyandotte, and inasmuch as it appears that the people of Wyandotte would be more faithfully and fully represented by Messrs. Welborn and Bennett, of their own midst, I therefore vote for the above proposition, that the people of Wyandotte county may be heard by their own chosen delegates on the floor of this Convention in that way and manner that will do no injustice to other counties of this Territory, and that will not infringe upon the organic law calling this Convention into being.

So Mr. Griffith's resolution was rejected.

PROTEST.

Mr. SLOUGH submitted the following protest, and asked that it be entered on the journal of the Convention:

The undersigned members of the Constitutional Convention, hereby enter our earnest and formal protest against the action of this Convention in excluding the delegates claiming seats from Wyandotte county, it being undisputed that these gentlemen were elected by a large majority of the people of Wyandotte county, at an election conducted in the same manner, and in conformity with the provisions of the law calling this Convention, which said election was participated in by five hundred and forty-five legal voters under the laws of this Territory, and that the omission of Wyandotte county in the apportionment for this Convention, was and is a gross fraud upon the people of said county, and works under the action of this Convention, the disfranchisement of a large and populous county, and we ask that this protest be entered upon the journal.

HALL CONST'N'L CONVENTION, June 8, 1859.

B. WRIGLEY,	C. B. MCCLELLAND,
J. M. STIARWALT,	J. P. SLOUGH,
J. W. FORMAN,	P. S. PARKS,
S. A. STINSON,	F. BROWN,
E. M. HUBBARD,	SAM. HIPPLE,
R. C. FOSTER,	A. D. MCCUNE,
J. WRIGHT,	J. T. BARTON,
E. MOORE,	W. C. MCDOWELL,

WILLIAM PERRY.

Mr. HOUSTON moved to lay the protest on the table.

Mr. SLOUGH demanded the yeas and nays, which were ordered and taken, resulting—yeas 15, nays 32—as follows:

YEAS—Messrs. J. Blood, N. C. Blood, Graham, Greer, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Lamb, Middleton, McCullough, Palmer, Ritchie, Stokes—15.

NAYS—Messrs. Arthur, Blunt, Brown, Barton, Burris, Crocker, Dutton, Foster, Forman, Griffith, Hipple, Hubbard, Kingman, Lillie, May, Moore, McDowell, McCune, McClelland, Preston, Perry, Parks, Ross, [*XLIV] Sig*nor, Slough, Stinson, Stiarwalt, Simpson, Thacher, Townsend, J. Wright, Wrigley, T. S. Wright, Williams—32.

So the protest was not laid on the table.

Mr. BLUNT moved that the protest be received and spread upon the journal, and the vote being demanded and taken on this question, stood—yeas 39, nays 12—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Brown, Barton, Burris, Dutton,

Foster, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Hanway, Kingman, Lillie, Lamb, Middleton, May, Moore, McDowell, McCune, McClelland, McCullough, Preston, Parks, Porter, Ross, Signor, Slough, Stinson, Stiarwalt, Simpson, Thacher, Townsend, J. Wright, Wrigley, Williams—39.

NAYS—Messrs. J. Blood, N. C. Blood, Crocker, Hutchinson, Hoffman, Houston, Ingalls, Palmer, Perry, Ritchie, Stokes, T. S. Wright—12.

So the protest was accordingly ordered to be spread on the journal of the Convention.

BASIS OF APPORTIONMENT.

Mr. MCCLELLAND. Mr. President, I move that the vote taken yesterday on the motion to send messengers to the country to get the census returns, in order that this Convention may be the better enabled to make a just apportionment, be reconsidered.

Mr. SLOUGH. Mr. President, after consulting with a number of members from remote counties, I am satisfied that unless we send messengers we shall not get the returns in time. The expense will be slight. The messengers can go and return in ten days. It may be, in consequence of not having these returns, the Convention will be delayed, and the expense would then be very much greater than that of the messengers.

Mr. THACHER. I think it unwise to send messengers. It would be expensive. Then there are many towns where the messenger would not find any returns. My friend from Pottawatomie informs me that no census has been taken there. They did not know the law. The laws are locked up safe in Lawrence, and when they will get to the people it will take a wiser man than I am to tell. I have written to our county clerk to send me the census, and we shall get them easiest in this way. I hope the order of yesterday will be allowed to slumber.

Mr. BURRIS. I think everything will be gained by writing to the clerks. I have written, and I think I shall get the information just as quick, and it will be as accurate, as from any other source. He is the clerk of the board. This will save a great expense, and wherever the census has been taken we can certainly get it in this way.

Mr. BLUNT. The case in Johnson and the case in Leavenworth county are very different. There is a difficulty in securing the returns from the southern counties. They have not the mail facilities that can reach us in less than four or five weeks. We think we have been disfranchised long enough in Southern Kansas. And the expense would be small. The messengers need not consume more than five or six days. It could not cost as much as the Convention waiting that length of time for the mails. We cannot do justice in the apportionment unless we have these returns. I think the importance of the case amply justifies the expense.

Mr. HOUSTON. Mr. President, if we send out runners, I think it will result in compelling the Convention to place the matter of apportionment in the hands of the Governor, President of the Council and Speaker of the House of Representatives, or some such plan. The runners will not get in in time. In several counties, as Marshall, Riley, Clay, Douglas, &c., there has been no census taken, and if we should send a thousand runners there we would be none the better off. It seems to me the better plan to write [*XLV] to the clerks, and *place this information before the committee on Apportionment at once.

Mr. ROSS. I think it is too late to obtain any desirable result in this way. The only safe reliance must be upon information derived from

members on this floor. That can be had speedily, and it will be satisfactory. I hope the Convention will not reconsider the order.

Mr. CROCKER. I hope this motion will not prevail. It will take two or three weeks to get information that will do us any good. If I understand it, the law requires the census returns to be made about these days, and could we not get it quicker by sending to the office of the Secretary of the Territory? I suppose I shall have the returns of my county in a day or two. About this trip to Southern Kansas in four or five days—it will take at least a week and a half or two weeks.

Mr. GRIFFITH. According to the law, the returns will be in the hands of the counties till the 4th of this month. It is probable that they then will be mailed to the Secretary's office. Making allowance for delays, it is not probable that they will be at the Secretary's office before the first of August. We want to adjourn before that time. It might require twenty days to get the answer of a letter to Bourbon county. It is absolutely necessary that we should have these returns, and we cannot be sure of getting them without going to the clerks or the supervisors. To be certain, I am in favor of sending messengers. They can come and go in ten days, and the thing can be done by five men.

The motion to reconsider was rejected.

ADJOURNMENT.

On motion of Mr. KINGMAN, it was—

Ordered, That when the Convention adjourns to-day it shall be till Monday morning at 9 o'clock.

PRESIDENT PRO TEM.

The PRESIDENT. The Chair would suggest the propriety of the election of a President *pro tempore,* so as to avoid a vacancy in the chair.

On motion of Mr. HOUSTON, it was—

Ordered, That the Convention do now proceed to the election of a President *pro tem.*

The election proceeded, and the first ballot, *viva voce,* resulted as follows:

Mr. Thacher received 33 votes, Mr. Barton received 15 votes, Mr. Slough received 1 vote; absent, 3.

Mr. Thacher having received a majority of the votes, was declared elected.

LIEN LAW.

Mr. BROWN offered the following, which, on the motion of Mr. Thacher, was referred to the committee on the judiciary:

Resolved, That it shall be referred to the committee on legislation to consider and report as to the propriety and expediency of directing that the Legislature shall be prohibited from passing any lien law that shall be partial in its operation, but that it shall be provided in any lien law hereafter passed, that all classes of laborers shall have equal privileges to a lien upon any property upon which their labor shall have been bestowed.

LIST OF MEMBERS.

Mr. BROWN submitted the following, which, on the motion of Mr. Kingman, was referred to the committee on Printing:

Resolved, That the Secretary of this Convention, at as early a day as possible, and upon the completion of the list of names, residence, county,

&c., &c., of the members of this Convention, cause three hundred copies of the same to be printed, and that the Sergeant-at-Arms be directed to furnish each member with five copies of the same.

The Convention then adjourned till Monday morning at 9 o'clock.

[*XLVI] *LIST OF COMMITTEES.

PREAMBLE AND BILL OF RIGHTS.

Hutchinson, Lillie, Hanway, Perry, John Wright.

EXECUTIVE DEPARTMENT.

Greer, Porter, Dutton, McDowell, Hubbard.

LEGISLATIVE DEPARTMENT.

Thacher, Arthur, N. C. Blood, McClelland, Brown.

MILITIA.

Blunt, May, T. S. Wright, Hubbard, J. Wright.

JUDICIAL DEPARTMENT.

Kingman, Thacher, Burris, Greer, Blunt, Lillie, Perry, Slough, Stinson, Parks, Wrigley.

ELECTORS AND ELECTIONS.

Townsend, Porter, May, Palmer, Arthur, Slough, Wrigley.

SCHEDULE.

Burris, Middleton, Ritchie, Hanway, Williams, Ingalls, McCullough, McDowell, Hipple.

APPORTIONMENT.

Preston, McCullough, Graham, Palmer, Thacher, Arthur, Moore, Crocker, Ritchie, Hoffman, Ross, McDowell, Stiarwalt.

CORPORATIONS AND BANKING.

Graham, Burris, J. Blood, Lamb, Middleton, Stokes, Blunt, Crocker, Burnett, Griffith, Slough, Barton, Perry.

EDUCATION AND PUBLIC INSTITUTIONS.

Griffith, Middleton, Stokes, Houston, May, McClelland, Hipple.

COUNTY AND TOWNSHIP ORGANIZATION.

Ritchie, T. S. Wright, Preston, McCullough, Moore, Simpson, Brown.

ORDINANCE AND PUBLIC DEBT.

J. Blood, Dutton, Kingman, Hanway, Hoffman, Burnett, Hutchinson, Lamb, Preston, N. C. Blood, Graham, Stinson, McCune.

FINANCE AND TAXATION.

Simpson, N. C. Blood, Crocker, Hutchinson, Palmer, Signor, Lamb, Hoffman, Porter, Stinson, Foster.

AMENDMENTS AND MISCELLANEOUS.

Houston, Ross, Ingalls, Signor, Williams, Burnett, Forman.

FEDERAL RELATIONS.

T. S. Wright, Houston, Stinson, Palmer, Forman.

PHRASEOLOGY AND ARRANGEMENT.

Ingalls, Ross, Kingman, Stokes, Dutton, Porter, Townsend, Griffith, Lillie, Stiarwalt, Barton, Perry, Foster, McCune, Parks.

[*1] *MONDAY, July 11, 1859.[1]

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

The journal of Friday was read by the Secretary, corrected and approved.

CLERICAL APPOINTMENTS—FRIDAY.

The SECRETARY reported his appointment of the following clerical assistants:

Ed. S. Nash, Journal Clerk.

R. J. Hinton and Robert St. Clair Graham, Enrolling Clerks.

CORRECTION OF THE REPORTS.

Mr. GRAHAM. Mr. President, I rise to a question of privilege. In the official report as published in *The Gazette* of Saturday, in the proceedings of Thursday last, I am incorrectly reported. I send the error to the Secretary to be read:

"Doniphan had not enough to entitle her to five representatives, and two were stricken off and given to Wyandotte, &c. This was by way of amendment to the council bill. The council assented to the House amendments, except that they reduced the Wyandotte delegation to two, added one delegate to Doniphan, and struck out 'Atchison' and inserted 'Wyandotte' as the place of holding the Convention."

Mr. President, this is incorrectly reported. What I said, was this: The committee took from the county of Leavenworth three delegates and placed them to the new county of Wyandotte. After going to the council by an agreement made between Wyandotte and Doniphan, it was arranged and the bill was amended so that one of the Wyandotte delegates should go to the county of Doniphan.

The PRESIDENT. Can any gentleman give information as to whether the mistake originated with the printer, or whether it is inherent in the report?

Mr. Ross. I consulted the printer in regard to this error this morning, and he assured me that the fault was not his, because he had not examined the proof-sheet of the report—that the Reporter took the responsibility of the reading.

The PRESIDENT. The Chair will state that he has noticed several discrepancies in the report—cases where the report is palpably different from the spoken language; but he has been informed, that the reporter has not yet secured the force he intends to have, and that the reports will not be so liable to errors, on this account for the future. Certainly the benefit to

[1] NOTE.—At this point in the original edition the page numbers were changed from Roman to Arabic numerals.

be derived from reporting must be in the correctness of the reports; and the Chair trusts that the committee will look to it that the reports come before the country as correct as may be. The Chair has also noticed that in the same speech of the gentleman from Atchison the word "Laughter" is interpolated. In the judgment of the Chair such a latitude of the pen seems to be improper in this place. In the newspaper reports such notices of the sensations of the audience are not out of place; but in the judgment of the Chair it is hardly admissible where the substance and spirit of the remarks of members are proposed to be given for a deliberative body.

Mr. ROSS. It has been suggested to me that it would be well for the reports to be corrected by the speakers themselves. The paper is not published till the afternoon, and there would be time to hand in the correction to the printer.

The PRESIDENT. The matter can be properly reached in two ways: under the head of resolutions, or through a report from the standing committee on printing.

Mr. BLUNT. I noticed several omissions and additions in the report of my remarks on Thursday. In some cases the error of a single word changes and spoils the sense. I will call attention to one case where the change of a word has destroyed the whole sentence. In one of the last paragraphs of the remarks I made that day, it is reported:

"Mr. President, let us lay aside every partisan feeling and local prejudice, and in the spirit of *ingenuousness* let us give to the people a Con-[*2] stitution that shall be acceptable to *them and honorable to our glorious constellation of States."

The word made use of was 'liberality.'—The error in this word destroys the whole paragraph.

MR. PERRY SWORN.

Mr. PARKS. Mr. President, I see my colleague (Mr. Perry of Leavenworth) is in the Hall, and I suggest that the Chair administer to him the oath of office.

Mr. PERRY then came forward, received the oath of a member of the Convention at the hands of the President and took his seat.

NEBRASKA DELEGATES.

Mr. TOWNSEND. Mr. President, I send up the credentials of the delegation to this body from the Territory of Nebraska, and ask their reference to the committee on credentials.

They were referred accordingly.

Mr. HOUSTON offered the following, which on the motion of Mr. Blunt, was referred to the committee on credentials:

Resolved, That the delegation elected by the people of Southern Nebraska to represent their wishes in reference to the question of State boundary be invited to honorary seats on this floor, with the privilege of presenting the wishes of their constituents, and speaking on the questions of State boundary.

HOURS OF SESSION.

Dr. BLUNT offered the following:

Resolved, That until otherwise ordered this Convention shall hold its sessions as follows: from 8 o'clock A. M. to 12 M. and from 3 o'clock P. M. to 6 P. M.

SCHOOL, UNIVERSITY AND ROAD LANDS.

Mr. GRAHAM submitted the following:

Resolved, That the committee on ordinance be instructed to embody the following proposition to Congress in the Ordinance to this Constitution:

1st. That sections number sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise disposed of, other lands, equivalent thereto and contiguous as may be, shall be granted to the said State for the use of Schools.

2d. That seventy-two sections of land shall be set apart for the use and support of a State University, to be selected by the Governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the Legislature of said State may provide, for the purpose aforesaid, but for no other purpose.

3d. That two sections of land, to be selected by the Governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the Governor thereof.

4th. That all the salt springs within the said State, not exceeding twelve in number, with six sections of land adjoining or contiguous as may be to each, shall be granted to said State for its use, the same to be selected by the Governor thereof, within one year after the admission of said State, and when so selected, to be used and disposed of on terms, conditions and regulations as the Legislature may direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals, shall by this article be granted to said State.

5th. That five percentum of the proceeds of the sales of all public lands lying within the State, which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State for the purpose of making public roads and internal improvements, as the Legislature shall direct: *Provided*, That the foregoing propositions shall never interfere with the primary disposal of the lands of the United States, or with any regula- [*3] tions Congress may find neces*sary for securing title in said soil to *bona fide* purchasers thereof, and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

6th. And the said State shall never tax the lands or property of the United States.

Mr. GRAHAM. I offer to the Convention this proposition in the very terms in which I find it in what is termed the English Bill. It is the same proposition which was made to us by the Democratic party, in the event of the adoption of the Lecompton Constitution. I suppose they cannot well back down from that which was offered as a bribe to receive a slavery Constitution.

Mr. GRIFFITH. Mr. President, inasmuch as we have placed this matter in the hands of one of the standing committees, I move that the resolution be referred to the committee on ordinance.

Mr. GRIFFITH offered an amendment that the words "Superintendent of Schools" be inserted after "Governor" in second resolution.

Mr. GREER offered the following, by way of substitute:

Resolved, That the committee on ordinance be instructed to inquire into the expediency of asking Congress to grant to the State of Kansas all the public lands within her limits at the time of admission into the Union.

Mr. GREER. I desire to cover more ground than the gentleman from Atchison.

Mr. PARKS. Mr. President, I think we are forestalling the committee on ordinance. I move, therefore, to lay the whole subject on the table.

Mr. GRAHAM demanded the yeas and nays, and the same being ordered and taken, resulted—yeas 12, nays 22—as follows:

YEAS—Messrs. Barton, Foster, Forman, Hubbard, Moore, McDowell, McCune, McClelland, Perry, Parks, Stiarwalt, Wrigley—12.

NAYS—Messrs. Arthur, Burnett, Blunt, Burris, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Houston, Kingman, Lillie, Lamb, Middleton, May, McCullough, Preston, Palmer, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, T. S. Wright, Williams, Mr. President—32.

So the Convention refused to lay the subject on the table.

Mr. BLUNT. If in order, I move that the original resolution, the amendment of the gentleman from Bourbon, and the substitute of the gentleman from Shawnee be referred to the committee on ordinance.

Mr. HOUSTON submitted the following:

Resolved, That the committee on ordinance be instructed to inquire into the expediency of asking a reasonable grant of land from Congress for the purpose of removing some of the obstacles which now exist in the way of steamboat navigation on the Kansas river, as far west as Fort Riley.

On motion by Mr. THACHER, the whole subject was referred to the committee on ordinance.

WOMAN'S RIGHTS.

Mr. HUTCHINSON (by unanimous consent) presented the petition of two hundred and fifty-two inhabitants of Douglas and Shawnee counties, on the subject of the elective franchise and the rights of females in connection therewith, and asked that it be referred to the committee on elective franchise and the judiciary.

Mr. McDOWELL proposed to amend by changing the reference to the committee on the militia.

The amendment was rejected, and the petition referred to the two committees first named.

Mr. HUTCHINSON submitted the following:

Resolved, That the Convention hold a special session on Wednesday evening next at 7 o'clock, for the purpose of considering in committee of the whole the several petitions from various counties on the subject of [*4] elective franchise, and that Mrs. C. J. H. Nich*ols be invited to present her views on the question at said session.

Mr. KINGMAN. Mr. President, the various and conflicting propositions necessary for us to reconcile in organic law, will necessarily occupy all the time we have to spare. We have already adopted a plan of hearing parties outside through our regularly constituted and organized committees. It seems to me, that important as this subject may be, the proper place to hear it is before the standing committees, where all who choose to do so may be present. I move to lay the resolution on the table.

The motion was withdrawn for—

Mr. HUTCHINSON. I have simply a word to say. I think, in behalf of the Ladies' Association existing in Southern Kansas, who have especially delegated Mrs. Nichols to appear here in this behalf, that it is very appropriate and fitting that this subject should be brought before the Convention in committee of the whole. Besides, Mrs. Nichols is one of the petitioners, and I hope no petitioner will be debarred the right to express her views.

Mr. GRIFFITH. I wish to remark, that it is not proposed to occupy any of the working hours of the Convention. The proposition is for 7 o'clock. The Convention should hear the arguments to be proposed by the lady. I have no objection to hear them. I am rather anxious to hear them. I should be sorry to see the motion prevail to lay on the table.

Mr. RITCHIE. Since we have just decided that a foreign delegation should have the privilege of appearing here and presenting their claims upon this body, I should be sorry, in the same hour, to see those who are most closely identified with all that is pure and good and restraining denied the privilege of appearing and presenting their views upon the great principles of government before the Convention. The right of petition, I hope, will ever be held sacred. In this age of intelligence—in the noon of the nineteenth century, I hope we will not take the position that we will not hear a woman in her own cause. Every man has received his first and best impressions from his mother; therefore, when the mothers speak don't let us become so full of Democracy and Republicanism as to stop our ears.

Mr. BLUNT. Inasmuch as this subject has been referred to the committee on judiciary and elective franchise, and these committees are expected to report upon it, I think it is proper that the argument should be presented before these committees. And there will be opportunity afforded, no doubt, for all who desire—both members and outsiders—to hear whatever argument may be presented, for the committees will sit in this hall.

Mr. BURRIS. Mr. President, I would like to amend by referring the resolution to the committee on the judiciary and the elective franchise.

Mr. HOUSTON. I hope this matter will not be placed wholly before the committees. I hope at least that the Convention will be more courteous towards half the people of Kansas. This resolution involves the question whether the ladies of Kansas shall be heard by this body through one of their number. Mr. President, I should like to hear this lady present her views. It seems to me that the ladies of Kansas may very properly demand this right of being heard here, and that it ought to be granted. It seems to me that they have a peculiar claim upon us, now in the commencement of the organization of a State government, to hear their arguments. If they have no arguments, or if their arguments are of no value; if they do not sustain their conclusions—still they have a right to present them for our consideration. It seems to me that this giving it to the committees would be to suppress the matter. I do not suppose that any of us feel that we are Solomon's son, or that we are already as wise as we ever can be. I confess that I am a little hunkerish on this matter in reference [*5] to the rights of women. But still I would like to hear these ar*guments. And the time is coming when it will be impossible for any power in this land to curtail one single human right. If the Republican party, which has come into power for the moment, shall ignore these rights, it will devolve upon some other party to develop them. But, sir, whilst we are

in power, I would say to gentlemen, let no man hesitate to do right—let us have the advantage of the whole field as it spreads itself before our vision. Gentlemen may laugh, but it is one thing to laugh and another thing to have a solid pillar of stone to stand upon.

Mr. BURRIS. It seems to me it would be entirely proper to refer the resolution to the committee in charge of the petition. Otherwise it would seem like referring a matter to a committee, and then, by a subsequent act, taking it out of their hands. I would prefer to let both go to the committee; let the lady be heard before the committees, and let such a report be made as the case may seem to demand. One gentleman remarked that the hearing would not be during the working hours of the Convention. If not, then all could attend, and I presume every gentleman would be pleased to attend and hear the argument. But as to hearing the argument in form before the body, by a person not a member of the Convention, I think we had better first hear the report of the committee, and then take such action as we may think proper.

Mr. BLUNT proposed the following, by way of resolution:

Resolved, That the committee on judiciary and elective franchise be instructed to convene in this hall on Wednesday evening, at 7½ o'clock, P. M., to consider the matter of the memorial of the citizens of Douglas and Shawnee counties on the subject of woman's rights, and that Mrs. Nichols be invited to address the Convention on the subject of the memorial.

Mr. MCCLELLAND. I move that the whole subject be laid on the table, and demand the yeas and nays on the motion.

The PRESIDENT stated that there was no rule regulating a demand for the yeas and nays, and in the absence of rule he would take the sense of the majority, by way of sustaining the demand.

The Convention, by a majority, refused to sustain the demand.

Mr. HUTCHINSON. It is a common rule that one-fifth or one-tenth of a quorum shall be sufficient to second a call for the yeas and nays.

The PRESIDENT. The gentleman is right; but, in the absence of any rule, the Chair cannot take anything but the will of the majority.

Mr. SLOUGH. We have established a precedent here, that any gentleman may call the yeas and nays without a second. It seems to me that, in the absence of any rule, we might be governed by precedent.

The PRESIDENT. The Chair has, hitherto, ordered the yeas and nays on the call of a member, but does not understand that any precedent has been established in the case.

Mr. HUTCHINSON moved an order for the amendment of the rules, so that one-fourth may second a demand for the yeas and nays.

Mr. THACHER proposed to amend by substituting an order referring this matter of amendment of the rules to the committee on rules, with instructions to report to-morrow morning.

The substitute was agreed to, and the matter referred accordingly.

Mr. MCCLELLAND'S motion to lay the subject of hearing Mrs. Nichols on the table, was rejected—affirmative 16, negative 25—and the question recurred on the adoption of Mr. Blunt's substitute.

Mr. THACHER. I consider the resolutions offered by the gentleman from Anderson (Mr. Blunt) to be right and fair. It proposes nothing more than an informal meeting of the body to listen to the discussion of a subject that has awakened considerable interest in the country. It is, at least, a [*6] question having two sides. Therefore, I think it eminently *proper

for the Convention to hold this informal meeting. I hope, also, that we will extend this becoming courtesy to the ladies.

Mr. BLUNT. The resolution is only to instruct the two committees to meet here and hear Mrs. Nichols.

The PRESIDENT. Both committees meeting on the same evening might make confusion, as the chairman of each committee might consider himself entitled to preside.

Mr. KINGMAN. There will be no collision between the chairmen of the two committees. The subject is more properly in the hands of the committee on the elective franchise than in the hands of the committee on the judiciary. But if it is not, I am sure it will not be disagreeable to the latter committee if I should waive my right to preside. I want to make an answer to the insinuation that I am not in favor of the right of petition. I am in favor of that right. I want these petitioners to be heard. I say nothing about the subject of the petition. All subjects of petition are assumed to be right in their object and intention. We have regularly constituted organs—our standing committees—for ascertaining, considering and reporting on these objects. I pass no opinion on the petition in question, but I cannot consent to depart from the established rules of the body for the assertion of any principle or the requirement of any right.

Mr. GREER. I concur with the gentleman from Brown (Mr. Kingman). I am perfectly willing to come here and hear the argument of any citizen of Kansas in favor of any proposition—but not in committee of the whole nor in the Convention. I am willing to grant the use of the hall, when it will not interfere with the Convention, for the purpose of hearing this subject or any other that may be addressed to the Convention in respectful language. But, as suggested by the gentleman from Brown, I doubt the propriety, as well as the policy, of allowing persons, who petition this body to come in and be heard. I think the Convention fully competent to dispose of all questions that legitimately come before it. And whilst I would not reject the petition of any portion of the citizens of Kansas, I must adhere to the usual mode of disposing of them, which is by the Convention itself.

Mr. HUTCHINSON. The gentleman from Brown thinks we would be establishing a bad precedent to allow petitioners to be heard here in their own behalf. I am of opinion that if half of the people of this Territory should, by express resolution, delegate authority to an individual to appear for them before this body, it would be the wisdom of the Convention—the duty of every member—to admit that party to be heard in open Convention. I consider this to be the case at this time. At a Convention of ladies in Southern Kansas, Mrs. Nichols was elected to appear here and advocate their rights in connection with the various subjects embraced in their petition. Sir, I am willing to stand open and above-ground on this question. I am sorry that a question agitating the public mind so universally as woman's rights—calling together intelligent audiences in every State in the Union—should have become, in our estimation, of so slight importance as to be thought unbecoming the dignity of the body to be heard in open Convention! I think no evil consequences can result from giving our attention to a question so interesting to half the people of the Territory. The day is coming when open and fair discussion of all questions pertaining to the constitutional rights of women as well as men, must be heard before all such bodies as this.

Mr. MCCLELLAND proposed an amendment to the substitute, and the

amendment and substitute as amended, and the resolution as substituted, were severally adopted without a division.

FIFTEEN MINUTES RULE.

Mr. GRIFFITH submitted the following:

Resolved, That all speeches made in this Convention be limited to fifteen minutes.

[*7] *The PRESIDENT. The proper form should be an amendment to the standing rules limiting speeches to half an hour.

Mr. GRIFFITH. I acquiesce in that. I think this body is capable of appreciating points, and that if gentlemen will present their points of argument they will be understood as well as by elaboration. By an estimate, it is ascertained that every thousand words spoken here will cost the Government of the United States or the people of Kansas over ten dollars. That being the fact, and our time being precious, we should be willing to be limited to the shortest time in which we can present our views. Let us make points, not spread eagle speeches.

Mr. MCDOWELL. I hope the resolution will not prevail. I think every member appreciates his position, and that none proposes to occupy time unnecessarily. There will be, no doubt, before the Convention, matter requiring considerable discussion, upon which it will be, perhaps, impossible to compress an argument in the time proposed. I think half an hour is little time enough for the limit.—We have had yet very few speeches, and they have been short. I am satisfied that there will be very little waste of time in speech-making in this body.

Mr. BLUNT. No man can be more anxious to facilitate business than myself, yet I am opposed to this resolution. I agree with the gentleman from Leavenworth, that questions will come before this Convention for discussion, upon which it will be impossible for a gentleman to present an argument in less time than half an hour, and I think the rule limiting speech to 30 minutes is little time enough. I shall, therefore, vote against the resolution to amend the rule.

Mr. THACHER. I think that 15 minutes is long enough—plenty. I do not know of any subject upon which I cannot express my views in 15 minutes.

Mr. HUTCHINSON proposed to amend the proposition by excepting the remarks of chairmen of Committees, but there was no second.

Mr. WRIGLEY moved reference of the matter to the Committee on Rules, which was lost—affirmative, 15; negative, 20; and the question recurred on Mr. Griffith's presentation.

Mr. GRIFFITH. If an important question should come up requiring lengthy speeches, we can go into Committee of the Whole and hear discussion till we are tired.

Mr. RITCHIE offered the following:

Resolved, That the Constitution of the State of Kansas, shall confer power on the Legislature, to prohibit the introduction, manufacture, or sale of spirituous liquors within the State.

On motion of Mr. BLUNT, it was referred to the Committee on the Legislative Department.

Mr. FOSTER submitted the following, which was adopted:

Resolved, That the Committee on Miscellaneous Business be instructed to inquire into and report as to the propriety of inserting in the con-

stitution a clause, exempting from forced sale for debts created after the adoption of this constitution, to every head of a family a homestead, the value of which shall not exceed a certain and stated amount.

Mr. McCUNE submitted the following:

Resolved, That the Committee on Executive Department be instructed to report an article giving the Governor power to convene the Legislature on extraordinary occasions.

Resolved, That the Committee on Legislative Department be instructed to report an article making members of the General Assembly elective biennially, and providing for biennial sessions of the Legislature; also, limiting the duration of the sessions of the Legislature to three months.

Mr. BLUNT moved their reference to the appropriate committees.

Mr. SLOUGH proposed to amend, so that they be referred without instructions.

These motions were agreed to.

Mr. HUTCHINSON submitted the following, which was adopted:

Resolved, That the several standing committees, excepting the committees on Apportionment, Phraseology and Arrangement, be required to report on or before next Friday, the 14th inst.

[*8] *Mr. McCUNE submitted the following:

Resolved, That the Committee on the Legislative Department be instructed to inquire into the expediency of providing in the Constitution Schedule some clause excluding all free negroes from a residence in the State of Kansas, from and after the first day of January, 1859.

Mr. GRAHAM moved to lay it on the table.

Mr. WRIGLEY demanded the yeas and nays, but there was no second.

Mr. SLOUGH submitted the following:

Resolved, That hereafter the business hours of the Convention shall be from 9 to 12 in the forenoon, and from 3 to 6 in the afternoon, and that all resolutions and orders heretofore passed in conflict herewith, be and the same are hereby rescinded.

Mr. ARTHUR proposed to strike out "nine" and insert "eight."

Mr. RITCHIE proposed to strike out "six" and insert "five."

Mr. THACHER. I heartily coincide with this. This Convention costs the people $200 a day, and I am glad to see a disposition to expedite business as fast as possible. Two committees have completed their labors before Friday. I hope the resolution will be adopted.

Mr. BLUNT. I understand that most all the committees have their reports in the hands of the printer, and the little business yet unfinished in their hands can be attended to during the mornings and evenings before and after the meeting of the Convention. In order that we may proceed as fast as possible with the business already prepared, I hope the resolution of the gentleman from Leavenworth will be adopted.

Mr. Ritchie's and Mr. Arthur's amendments were rejected, and then the original resolution was adopted.

Mr. FORMAN submitted the following, which was adopted:

Resolved, That there be added to the standing committees of this Convention a committee of five members, to be styled the 'Committee on Accounts,' whose duty it shall be to examine all accounts of members and officers of this Convention, or others having accounts with the same;

and shall at the end of the session or at other times as it may deem proper, report to the Convention the respective accounts justly due.

Mr. HOFFMAN submitted the following, which was referred to the Committee on Preamble and Bill of Rights:

Resolved, That Religious Tests shall never be required as a qualification for any office of trust under the State, and no person shall be rendered incompetent to give evidence in any court of law or equity in consequence of his opinions on the subject of religion.

Mr. GRAHAM as chairman of the Committee on Corporations and Banks, offered a report.

Mr. SLOUGH moved the rejection of the report by the President as out of order, as not having been printed in accordance with the standing rule—it was so ruled.

Mr. LILLIE. Mr. President, I move that the vote on Friday last rejecting the resolution by which the Wyandotte delegation were proposed to be admitted to honorary seats in this body, be now reconsidered.

The motion was agreed to, and the question recurring again on the adoption of the resolution, and the yeas and nays being demanded and seconded, the vote stood—ayes 28, nays 20—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hanway, Hoffman, Houston, Kingman, Lillie, Lamb, Middleton, May, McCullough, Preston, Porter, Signor, Stokes, Thacher, Townsend, Wright, Williams, Mr. President—28.

NAYS—Messrs. Barton, Foster, Forman, Greer, Hipple, Hubbard, Hutchinson, Moore, McDowell, McCune, McClelland, Palmer, Perry, Parks, Ritchie, Slough, Stinson, Stiarwalt, Simpson, Wrigley—20.

So the resolution was adopted.

Mr. LILLIE. When this subject was considered before I voted in the negative. I did so under the impression that this courtesy had been extended to the Wyandotte delegation on a former occasion, but finding myself laboring under a wrong impression, I have taken opportunity to set myself right.

On motion by Mr. GRAHAM, the Convention then took a recess till 3 o'clock, P. M.

PROCEEDINGS AND DEBATES of the Kansas Constitutional Convention, convened at Wyandotte, July 5th, 1859, under the act of the Territorial Legislature, entitled "An Act providing for the formation of a Constitution and State Government for the State of Kansas." Approved Feb. 11, 1859.

MONDAY, July 11.

AFTERNOON SESSION.

On motion by Mr. McDOWELL, leave of absence was granted to Mr. Perry, on account of ill health.

CORPORATIONS AND BANKING.

Mr. GRAHAM, from the Committee on Corporations and Banking now submitted the following report:

CORPORATIONS.

SECTION 1. Corporations may be created under general laws, but shall not be created by special act, except for municipal purposes. All general laws or special acts authorizing or creating corporations may be altered from time to time, or repealed.

SEC. 2. Dues from corporations shall be secured by such individual liability of the stockholders, and other means as shall be prescribed by law; and each stockholder of a corporation or joint stock company, except corporations for charitable purposes and railroad corporations, shall be individually liable over and above the stock owned by such stockholders, and any amount unpaid thereon, to a further sum at least equal in amount to such stock.

SEC. 3. The property of corporations, now existing, or to be hereafter created, shall be subject to taxation the same as the property of individuals; *Provided*, That the property of corporations for charitable or religious purposes, not exceeding in amount the sum of fifty thousand dollars, shall not be subject to taxation for any purpose.

SEC. 4. All real estate or other property of religious corporations, shall vest in Trustees, whose election shall be by the members of such corporations.

SEC. 5. The General Assembly shall provide for the organization of cities and villages by general laws, and shall restrict their powers of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent the abuse of such powers.

SEC. 6. The term corporations, as used in this article, shall be construed to include all associations and joint stock companies having any of the powers and privileges not possessed by individuals or partnerships; and all corporations shall have the right to sue, and shall be subject to be sued by their corporate name in all courts of competent jurisdiction, the same as natural persons.

BANKING AND CURRENCY.

SECTION 1. No bank shall be established otherwise than under a general banking law.

SEC. 2. Whenever the Legislature shall provide a general banking law it shall require, as collateral security for the redemption of the circulation of any bank organization under such law, a deposit, with the Auditor of State, of interest-paying bonds of the several States, or of the United States, and the Auditor of State shall register and countersign no more circulating bills of such bank than the cash value of such bonds when deposited.

SEC. 3. Whenever the bonds pledged as collateral security for the circulation of any bank shall depreciate in value, the Auditor of State shall require security, or curtail the circulation of any bank as may be provided by law.

SEC. 4. All bank notes issued as money shall be redeemable in the legal currency of the United States. Holders of bank notes shall be entitled, in case of the insolvency of such banks, to preference of specie payment over all other creditors.

SEC. 5. The State shall not be a stockholder in any bank or banking institution.

[*10] SEC. 6. All banks shall be required to keep *officers and offices for the issue and redemption of their circulation at some convenient point within the State.

SEC. 7. Any general banking law which may be enacted, may at any time be altered, amended or repealed. ROBERT GRAHAM, *Chairman.*

On motion by Mr. SLOUGH, the Convention resolved itself into a Committee of the Whole House (Mr. Thacher in the Chair), and took up the consideration of this report, and it was ordered to be considered by the sections separately.

The first section being read by the Secretary.

Mr. STINSON proposed to strike out so that the section will read—"Corporations shall be created under general laws alone, except for municipal purposes." He considered the second line mere surplusage, for it is a conceded principle, that where an act of incorporation has been granted, any time before vested rights have accrued under the act, the Legislature may amend, but the Legislature cannot touch the charter, so as to interfere with those rights.

Mr. SLOUGH proposed to amend by way of substitute, which he said he derived from the first and second sections of the article on corporations in the Ohio Constitution. It was read as follows:

"The General Assembly shall pass no special act conferring corporate powers. Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed."

Mr. SLOUGH. I propose, that no act of incorporation shall be passed, except of a general character. I cannot conceive of the necessity for any distinction being drawn between corporations. It is proposed in the report to make an exception in the case of municipal corporations. I see no necessity for the exception. I understand that there is another provision to be proposed requiring all acts to be of a general character, and as villages, towns and cities are to be classified, it will allow all of the same class to be placed on the same footing. It seems to me that our legislation

will be greatly simplified, if such a provision of the Constitution shall be complied with.

The substitute was adopted—affirmative 22, negative 12, and so the first section was passed.

The second section being read by the Secretary.

Mr. BURRIS proposed to amend by striking out the words, "And any amount unpaid thereon," to the 5th line. These words were unnecessary. He could see nothing gained by retaining them, only as they tend to mystify and obscure the sense.

Mr. SLOUGH. It frequently occurs that only a small portion of the stock is paid in—say $10 on the $100, and these words are for the purpose of providing that the party shall be responsible, not merely for the $10, but for the full value of his stock.

Mr. MCDOWELL. At the first blush, my mind agrees with the suggestion of the gentleman from Johnson (Mr. Burris). It seems to me that it should be immaterial whether the stock is paid in or not, if the stockholder owns it. The object to be accomplished by the section is to secure the individual liability of the stockholders in double the amount of stock owned, so that the country may not suffer on account of the indebtedness of the corporation. That is the object. If it can be attained as well by striking out these words, which may throw doubt on the meaning of the section, then these words ought to be stricken out. But is that the case? It seems to me, that the section as thus read, has a very appreciable meaning—so clear that it cannot be misunderstood, and that the addition of these words throw doubt upon its meaning. But now, what is the amount of stock owned by an individual? Is it the amount he has paid in? or is it the amount for which he has the certificate of the company? If it is simply the amount paid in, then the gentleman from Leavenworth [*11] (Mr. *SLOUGH) is right; but if it is the face of the certificate of stock, then these words are surplusage. I think when the stock has been subscribed, the individual becomes responsible for the face of the certificate he holds. And one of the objects we ought to have in view is the simplification of the phraseology we employ.

Mr. SLOUGH. I am willing to concede that the section is not as clear as it might be, and I propose to amend by striking out all after the word "corporations," in the 5th line, and insert these words: "shall be liable in a sum double the amount owned by each stockholder."

Mr. HIPPLE proposed to amend the amendment by striking out the words, "and railroad corporations;" which was rejected.

Mr. SLOUGH's amendment was adopted.

Mr. STINSON proposed to amend by striking out the words, "Dues from corporations shall be secured by individual liability of the stockholders, and other means as shall be prescribed by law; and." It seemed to him that these words were mere verbiage.

The amendment was rejected; and so the section was passed.

The third section being read by the Secretary—

Mr. HOFFMAN proposed to amend by striking out all after the word "individuals."

Mr. STINSON proposed to strike out the entire section. It was all surplusage.

Mr. SLOUGH. I should dislike to see this section stricken out, unless the committee on Finance and Taxation shall incorporate it.

A voice. We have got it.

Mr. SLOUGH. Then I am in favor of striking out.

Mr. HUTCHINSON proposed the following by way of substitute, which was rejected:

"The property of railroad and telegraph corporations shall be exempt from taxation until such time as said corporations have declared a dividend on their stock."

The motion to strike out was agreed to, and it was also agreed that section four should be section three.

Section 4 being read by the Secretary—

Mr. SLOUGH proposed to insert as section four the following, derived from section 5, article XIII, of the Ohio Constitution:

"No right of way shall be appropriated to the use of any corporation, until full compensation therefor be first made in money, or first secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation; which compensation shall be ascertained by a jury of twelve men, in a court of record, as shall be prescribed by law."

Mr. PRESIDENT WINCHELL. I propose to amend by striking out the words: "Irrespective of any benefit from any improvement proposed by such corporations."

Mr. BLUNT. I am opposed to the amendment of the gentleman from Osage [Mr. Winchell]. I think it would leave the section in such a shape that it would operate unfairly and unjustly. I know that it is claimed by many that the advantages derived from the location and construction of a railroad or other work of internal improvement through a man's land or plantation should be sufficient compensation for the damages; and viewing it in one sense that may be the case. But does not this rule invidiously discriminate between such a man and his neighbor, who receives the same advantages from the location of the railroad or work of internal improvement, and who is not damaged at all by the cutting up of his land? For instance: *A* and *B* each own a quarter section of land adjoining some railroad, who have derived equal benefits from the location and construction of such road. But the road runs through the land of *A*, damaging him greatly, and in consideration of the benefit he derives from the road he is awarded no damages,—whilst *B* sustains no damage at all, and enjoys all the advantages which have cost *A* the ruin of his farm. [*12] This matter, I know, was thor*oughly canvassed in Ohio, and in the late Constitution, adopted in 1851, this clause was provided. Previous to that time, it was customary in assessing damages which any person might sustain by the location of a railroad or other work of internal improvement through his plantation, to take into consideration the benefits accruing; and even if the railroad run diagonally through his farm, I never knew an instance in which damages were awarded to him, according to his claims. And the people of Ohio, seeing the unfairness and injustice of this system, had this provision incorporated into their Constitution; and I believe they are still satisfied with it. So I think the matter of material importance, that the section should be retained as it stands in the original proposition.

Mr. PRESIDENT WINCHELL. It appears to me, sir, that the financial condition of the citizens of the State of Kansas, and that of the people of the State of Ohio, are widely dissimilar. Whilst it is comparatively an easy matter to construct a railroad there, where there is capital, and where cor-

porations are willing to enter on such works upon almost any terms, I presume all are aware, that it must be very difficult to construct a railroad in Kansas for some time to come. It is for this reason that I am willing to offer an inducement for capitalists to come among us and invest in railroads, by diminishing the damages for the right of way. It seems to me also, that no man is so much benefitted as the man through whose land the road passes. It gives him immediate access to the road. It gives him the opportunity for a depot and the building up of a town on his farm. And it seems also, that if his farm were badly cut up, requiring extra fencing, &c., that any jury of fair-minded men would award him damages. For these reasons I am in favor of the amendment.

Mr. HOUSTON proposed to make the number of the jury of assessment "six" instead of "twelve"; which was rejected.

Mr. Winchell's amendment was then agreed to; and so the section was adopted.

Section five being read by the Secretary—

Mr. KINGMAN proposed to amend by striking out the words, "The General Assembly shall provide," and inserting these words: "Provision shall be made by law."

Mr. HUTCHINSON suggested—"by general law."

Mr. KINGMAN accepted, and so the amendment was adopted.

Mr. PRESIDENT WINCHELL proposed to strike out the words, "shall restrict," and insert after the word "credit" these words: "shall be restricted."

Mr. FORMAN proposed to strike out "cities" and insert "towns."

These amendments were agreed to.

Mr. STINSON proposed to strike out these words: "and shall restrict their powers of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent the abuse of such powers."

Mr. SLOUGH objected to this. The practical operation of this provision in the Ohio Constitution had been to limit in cities and towns the amount of taxation that might be levied for municipal purposes. It was to prevent abuse of the taxing power. It was one of the wisest and best provisions that could be inserted in the Constitution.

Mr. KINGMAN. Still it left the whole power in the hands of the Legislature. They were themselves the judges whether the power is abused or not. It added nothing to the security against abuse.

Mr. BURRIS. I cannot see the propriety of striking out these words. They do not lengthen the section very much. They are not cumbersome. It seems to me that this is just such a provision as ought to be there. It is thus imperatively made the duty of the Legislature to provide against abuses. It is imperatively required of them. It is just as peremptory as the provision that they shall provide by general law for the organization of towns and villages.

The amendment was rejected; and so the fifth section passed.

[*13] *The sixth section having been read by the Secretary—

Mr. STINSON moved to strike out this section. It seems to me utterly preposterous—like other things I have moved to strike out.

Mr. SLOUGH. It appears that this section is only for the purpose of defining what the word "corporation" means. It is unnecessary in the Constitution.

Mr. GRIFFITH. If it can do no harm, I see no necessity for striking it out. I am opposed to mutilating reports, unless there is a clear necessity for so doing. This very article, as I understand, is found in a number of State Constitutions, and perhaps it is applicable and important.

The motion was rejected.

Mr. MCCLELLAND made an ineffectual motion to strike out the last six words of the section.

BANKING AND CURRENCY.

The SECRETARY having read the first section in this chapter of the report of the committee on Corporations and Banking—

Mr. MCDOWELL. Mr. Chairman, I propose to strike out all after the word "established," and insert in lieu thereof the words "by law."

In offering this amendment, Mr. Chairman, I propose for a single moment to give my reasons for it. I am opposed, sir, to all banks. I am opposed to giving the Legislature any power to create banks. I want, if possible, to see the new State of Kansas start right on this question, and my notion is, that the right way to start on this question is, to take away from the Legislature all power of creating banks. I have regarded the history of banking in this country, sir, as a history of disaster, of ruin, and of all manner of unfairness, to such a degree that it has been eminently oppressive in all the States where they have existed.

I believe, sir, in the first place, that it is impossible to establish a system of banking that will be safe—under which the noteholder can be made secure. The temptation to fraud, to cheatery, to dishonesty, under any system of banking that I have ever seen are so great, that experience has demonstrated that, under almost all systems of banking, they have not been resisted. It is especially true in this country, that all our monetary revulsions result from the depreciation of bank paper. I defy gentlemen to show a case where these revulsions have not resulted from the establishment of banking in the country.

Gentlemen may reply and say, if we suppress banks we will be without a circulating medium. In answer to that, I have simply to say, that there is enough of the precious metals in the country to create a circulating medium to answer all purposes that banks can, and that if we establish nothing for a circulating medium but gold and silver, gold and silver will find their way here. The country abounds, sir, with this character of a circulating medium—locked up in the vaults of the banks, and prevented from going into circulation, because bank notes circulate in their stead. If we adopt that for our position, we shall avoid the ruin which these banks have everywhere wrought, and we shall have a currency in which there will be no mutations, and connected with which there will be no revulsions. Nothing so materially retards the prosperity of a State as the establishment of such corporations. Some few States, I admit, have banks, with charters well guarded and restricted, which seem to work well. But it must be yet a matter of doubt with them all, and no man can say that they will not yet result in the ruin of many, and to the detriment of the interests of the State in which they exist.

Sir, I propose that this State shall start right. I propose that we keep away from the Legislature all power to create such corporations. I may be in a small minority here on this question, but conceiving that I am right, I am constrained to call upon the Convention to consider well whether it is not our true policy to prevent the creation of any bank of [*14] *issue in Kansas.

I know it is futile to institute Constitutional objections to the estab-

lishment of banks by a State government; for by common consent of the States, they have nearly all ignored the legal proposition; but still I will advance it for what it is worth. The Constitution of the United States directly prohibits the States from establishing corporations with banking powers. [Mr. McD. here referred to two cases in 4th and 5th Howard's Reports, in which the Court defines a bill of credit, and decides that a State as such, cannot issue bills of credit. He continued.] And if a State cannot do such a thing directly, it certainly cannot do so by any indirection, as through a chartered incorporation. This was the only question in those cases before the Supreme Court that all such banking corporations are void. But still the people are in favor of the banking system.

But, if the legal power in the hands of the State were not doubtful, regarding it only in the light of expediency, I should still insist on restraining the legislature in exercising it. For it does seem to me that the history of our State presents an unanswerable argument against this proposition, and I regard history as the best sort of political philosophy. I regard every State as starting radically wrong that does not start right on this question. It is time, as it seems to me, that some new State should take this step—in advance of the older ones; and it seems to me that no step could be taken more creditable to the new State than that I have indicated in this amendment.

Mr. Chairman, this question has come up rather unexpectedly to me. I had intended to have prepared and presented some statistics bearing upon it, and amply sustaining all that I have alleged and that is contemplated in my amendment; and I still propose to substantiate my allegations by an array of statistics, easily obtained and irrefragable in their character. I hope gentlemen will consider the matter and express themselves freely on this proposition; for the question is so palpable to my mind, that nothing could please me more than to see such principles as I have indicated in the Constitution.

Mr. J. BLOOD. Mr. Chairman, I do not greatly disagree with the gentleman from Leavenworth in his opposition to banks. I have always believed the system wrong. Still I am aware (as every other gentleman must be, I suppose,) that if we prohibit banking in this Constitution it will be voted down by the people. I would have no objection to inserting in this Constitution a clause of this character, that any general banking law passed by the Legislature shall be submitted to the people at the next general election, and shall not go into effect until ratified by a majority of all the votes cast. But I am confident that to prohibit the Legislature from enacting a banking charter would be to defeat the Constitution. I remember the first Wisconsin Constitutional Convention prohibited banking, and their Constitution was voted down by the people principally on account of that provision. And the second Constitution provided that the question should be submitted, and a very large majority voted in favor of banking. A general banking law was passed, and it was also submitted and ratified. And I presume such would be the case with any banking law or proposition that might be presented to the people of Kansas.

Mr. BLUNT. Mr. Chairman, I suppose the only question that can possibly be raised in Kansas upon this question would be in regard to the basis upon which banks must be established, in order to secure the bill holder and provide for the redemption of their circulation. I know that there was a time not long since in the history of our country, when there was quite a formidable anti-bank party. In the State of Ohio it was made an issue for a number of years, and used in all our elections, and it was used principally in order to prejudice the mercantile classes. But I never

[*15] found an individual engaged in the mercan*tile business, that was not forced to see the necessity for banks of issue, and that was not really a bank man, whether he belonged to one political party or the other. And I believe nothing would more cripple the energy and enterprise of the State of Kansas than for this Convention to refuse to make any provision upon which banks might be established. If we propose to be a mercantile and commercial people—if we expect to have commercial business to transact in the outer world we must have a circulating medium other than gold and silver. And if we do not secure to ourselves a banking system, established upon a sound basis, that shall give ample security to the bill holder, we must be dependent for a circulation upon the rags and trash emitted from the banks of other States. And I conceive that this Convention can do no act which will better subserve and advance the prosperity and interests of the Territory than by providing that the General Assembly may by general law admit of the creation of banks of issue, at the same time throwing around them such restrictions that they cannot abuse their powers.

As a member of the Committee on Corporations and Banking, I will say that we had prepared and reported the principles of a system of banking that little or no objection could be opposed against. We have taken care in the succeeding sections of the bill to provide against abuses by any bank or corporate body organizing under the provisions of a general banking law, by requiring deposits of stock of the several States and of the United States with the Auditor of State, as a guarantee or collateral security for their circulating medium; and that the Auditor shall not be authorized to countersign any more bills than shall be equal to the cash value of such stock so deposited by them. And then to provide still further against fluctuations and depreciations in the value of stocks, we provide a section that whenever the amount deposited shall depreciate in value the State Auditor shall require additional security, or a corresponding curtailment of the circulation of the bank.

Now the only question for the Convention is, whether we shall establish a banking system by general law—give to the Legislature power to charter corporations by general law so that there shall be no temptation held out for corporations to interpose their influence with the Legislature to induce grants of specific advantages in special charters. By providing a general banking law it will be seen that there is little or no opportunity by which the Legislature can be corrupted. The only question is, then, whether we shall provide for a safe circulating medium which shall afford all the banking facilities demanded by our commercial interests, and which will amply secure the bill-holder and which will inspire general confidence; for I take the ground that the prejudice against banks comes from the rottenness of the bases on which banks have been established. Now the question is, whether we shall provide ourselves with such a currency, or whether we shall suffer ourselves to be imposed upon by our neighboring States by having their bank bills flooded in upon us, of the value of which we can know nothing.

As far as my knowledge extends with reference to the wants and views of the Territory, I believe the people are decidedly in favor of banks; and I believe that any Constitution which did not provide for the organization of a sound banking system would be rejected by the people. And if we take this course our labors will be all in vain. I hope the Convention will not pass over this matter hastily.

Mr. GRAHAM. I offer an additional amendment. Add these words:

"Until subjected to a vote of the people at some general election:" so as to read "no bank shall be established by law until submitted," &c.

The amendment was lost.

[*16] The question recurred then on the amend*ment of the gentleman from Leavenworth [Mr. McDowell] and it was rejected.

Section two having been read by the Secretary—

Mr. WINCHELL offered the following as a substitute:

All general banking laws shall require as collateral security for the redemption of the circulating notes of any bank organized under their provisions, a deposit with the Auditor of State, of the interest-paying bonds of the several States, or of the United States, at the cash rates of the New York Stock Exchange, to an amount equal to the amount of circulating notes which said bank shall be authorized to issue; and a cash deposit in its vaults of ten per cent of said amount of circulating notes.

The substitute was adopted—affirmative 24, negative 18.

Mr. KINGMAN proposed to strike out the words "of the several states" and insert these words "of the State of Kansas."

Mr. KINGMAN. The object to be attained is to strike out the bonds of all the other States except Kansas and the bonds of the general government. The effect will be to make our bonds of par value, and it will then be in our power to make the bill-holder entirely safe.

Mr. BURRIS. It seems to me, Mr. Chairman, that the amendment ought not to prevail. I think it must be plain to the mind of every member that good policy will never allow the State bonds of Kansas to be issued to any very great amount; and I cannot see why the interest-paying bonds of the States would not secure the bill-holder just as well. I remember that under the first Constitution of the State of Iowa they could not create an indebtedness of more than $50,000, and I hope the State of Kansas will adopt some such policy. I think the amount should be restricted to a sum not greater than $50,000 or $100,000. And that will be no great amount to bank upon. Why not then allow the bonds of other States to be deposited as well as the bonds of Kansas? It seems to me that the bonds of other States would be equally good as a security, and might as well be used.

Mr. STINSON. I suppose our object in making any provision in relation to banking will be to secure a safe system, and at the same time derive the greatest benefit from the system itself. It seems to me that the State of Kansas and every new State coming into the Union must have a considerable public debt. There are extensive improvements to be undertaken, and it will not be right, it will not be possible for the new State to bear the amount of taxation which will immediately devolve upon it; and if we can devise any means of borrowing money it seems to me it will be to our interest to do so. By the adoption of this amendment we secure a rapid sale of our bonds which will stand at par and even above par in the market. As for other State bonds, we cannot control them and it is possible that they may repudiate. But here we shall have a safe system at home. All the bill-holders are interested in sustaining the credit of our State. The banks and bankers and the bill-holders mutually sustain each other.

Mr. BLUNT. Mr. Chairman, I think the amendment offered by the gentleman from Brown (Mr. Kingman) is entitled to our consideration. It embraces the same idea I had in view in offering the resolution which I did offer on Thursday morning, and we had the same matter subsequently

before our committee. I was in favor, in the Committee, of making a provision to restrict these Stock Securities to the bonds of the State of Kansas, and of the United States, but I was overruled.

I think we may safely predict the creation of a State debt to a considerable extent, probably sufficient, together with the U. S. bonds, to afford a basis of all the banking we shall desire. Hence I shall vote for the amendment of the gentleman from Brown.

Mr. Kingman's amendment was agreed to.

[*17] *Mr. SLOUGH. As we have not the amendment offered by the gentleman from Osage (Mr. Winchell) in printed form, I cannot tell exactly where to attach the amendment I propose. I move to amend by inserting appropriately these words, somewhere after the word "Auditor," "And he shall register all bills issued by such banks, and no more in amount than the cash value of such bonds so deposited."

Mr. HUTCHINSON proposed to modify the amendment so as to read:

"And the State Auditor shall register and countersign no more circulating bills of any bank than the cash value of such bonds when deposited."

Mr. SLOUGH accepted, and so this proposition was adopted as additional to that of Mr. President Winchell.

Mr. GRAHAM. Mr. Chairman, it does appear to me that as the substitute now stands it will virtually give no security to the note-holder. In the report we made, we had a sliding scale. That is, as the banks depreciated we required that additional security should be deposited, or a curtailment of the amount of circulation. The matter as it now stands will result in this way. It is self-evident that we will have a large indebtedness when we come to be a State—no doubt a half million or a million of dollars, the first year. These Kansas bonds pass into the hands of speculators at nominal prices—they go into the New York market, and there their owners will raise these stocks up to par value and come here and bank upon them; and upon that for the basis you will have an issue of paper money. Then the bonds will be depreciated and there is no sliding scale to secure you.

Mr. PRESIDENT WINCHELL. The substitute offered by myself does not touch the third section which provides the sliding scale the gentleman speaks of.

The second section, as amended, was now adopted.

The third section was read by the Secretary.

Mr. PRESIDENT WINCHELL. Mr. Chairman, to make this harmonize with the amendment I propose to strike out the words "as may be provided by law" and insert these words: "to such extent as will continue the security unimpaired." I do not consider the language of this third section sufficiently strong. It does not prescribe to what extent the security shall be carried. I desire to have this done so as to render the notes unimpaired in value.

The amendment was agreed to by consent, and so the third section was passed.

The 4th section was read by the Secretary.

Mr. KINGMAN proposed to strike out the word "money" and insert, in lieu thereof, the words "circulating medium;" also, to strike out the words "legal currency of the U. S." and insert in lieu thereof the word "money;" also to strike out the word "specie" in the 26th line.

Mr. GRAHAM. The object the Committee had in putting in the words "legal currency of the U. S." is this: in the charter of the bank of the Valley of Kansas, it is provided that its notes shall be redeemed when presented, in gold and silver. And it was but a few days ago that several thousand dollars came up to them at Leavenworth for redemption, when they took advantage of these words and commenced redeeming their notes in three, five and ten cent pieces. About the same thing occurred a week or ten days ago in the State of Missouri, when the bank at Lexington was called upon for some $65,000 from St. Louis.

Mr. KINGMAN. This is a hard one, Mr. Chairman, but unfortunately there is a clause in the Constitution of the United States that has vexed me in every condition of life in which I have been placed, and that is that no State shall make anything a legal tender but gold and silver. Are we to construe this clause to mean anything but gold and silver? I believe the legal currency of the United States is money, and I wish merely to correct the phraseology.

Mr. GRAHAM. I think by changing the phraseology it changes the in-
[*18] tention we want to get *at. We want these corporations to have no power over individuals holding their note and claiming payment—no more power than you, sir, would have over me in such a case.

Mr. Kingman's amendments were severally agreed to and so the 4th section was passed.

Section 5th was read and adopted by consent.

Section 6th was read by the Secretary.

Mr. WRIGLEY offered the following addition:

"And a majority of the stockholders of any bank shall be resident householders of the county in which said bank is located."

Mr. PREST. WINCHELL. It seems to me that we shall be circumscribing our banking facilities and defeat the whole object, if we provide that foreign capitalists shall not do business in our State.

Mr. WRIGLEY. Mr. Chairman, I am opposed to the adoption of any banking law which shall be for the purpose of enabling speculators to make money off the people. The intention of such a law should be, while it shall present as great a check as possible to undue speculation, yet it shall secure to the people their best interests—that is, we should establish banks really for the benefit of the people. I have given but little attention to these matters, but my observations in the State of Indiana suggest this precaution to my mind. I know that in that State under their general banking law, the bill-holder could not sometimes find the bank, or at least it was often difficult for him to find a place where he might present his note for payment. He might sometimes find the bank in a stump, and again sometimes in the hat of some President that might be walking in the northern swamps. The object was to establish a bank in any out of the way place, whereon the parties might stick up a board. I am opposed to that license in banking. If it is the wish of the people to have a bank in any place, it seems to me that there will be sufficient capital in the county to enable them to own one-half of the stock.

Mr. HOUSTON proposed to amend the amendment by inserting the word "State" instead of "county."

Mr. PREST. WINCHELL. I am opposed to the amendment of the gentleman from Doniphan (Mr. Wrigley) for the reason that so far from wishing to decrease our commercial and business facilities, I desire to enlarge them; and so far from providing that no banks shall be located outside of

the large cities in the State, I would make provision that they should be placed in the most convenient parts of the State, and that capitalists should be invited to invest their funds with us in their own way.

Mr. GREER. I am not sure that it will be for the advantage of the State to invite capitalists from abroad. I think the people of Kansas will find themselves better sustained in a financial point of view if they were to become money-lenders instead of money-borrowers. I am in favor of confining these securities to the bonds of Kansas. I think it is better to loan than to borrow money. Capitalists who come here to bank, come for the purpose of loaning money at a better interest than they can obtain elsewhere. A money lender at a low rate of interest, is better off than a borrower at a high rate. Men go into the banking business for the sake of making money. If it were possible to get along without banking and afford the facilities necessary for the proper wants of the State, I would be with the gentleman from Leavenworth (Mr. McDowell). There is perhaps no State in the Union that has adopted any general banking system, however well guarded, but what their bills have been thrown upon the people, and have become more or less depreciated. I know that was the case in the State of Indiana. Shortly after the adoption of their Constitution of 1851, under a general banking law numerous banking institutions sprung up all over the State, and as stated by the gentleman from Doniphan (Mr. Wrigley) a number of their locations could not be found. I remember that a gentleman searching for one of these banks out north, was directed to a stump, and I believe he ultimately found some [*19] *security for his bills deposited in some man's hat. But it was but a short time after the country was flooded with these bills, when, by some manœuvering, the bonds deposited by these bankers were suddenly depreciated, and some nine or ten of them went down in one night. Then runners were sent out to buy up this depreciated circulation, and thousands of dollars were made both ways, both by the purchase of the bonds and the buying up of the notes, of which they were the security.

Mr. BLUNT. It seems to be the motive of gentlemen to cite the history of banking in Indiana as an objection to a general system of banking. If that is so it is unjust; for all know that the system in Indiana was upon a very different basis from that which we propose. Under the Indiana banking law the Auditor was authorized to take all sorts of security. They did not confine them to State bonds. They took canal bonds, turnpike and railroad bonds, and they were all put in at a fictitious value. Stocks worth ten per cent. were put in at 80 or 90 or at par. The consequence was that many of the Indiana banks went down. Now we propose securities which every one must know are of a staple character—which fluctuate very little, and even that fluctuation is provided against. I think it very unfair and unjust to spring the Indiana system as an argument against the system which we propose to establish.

Mr. GRAHAM. I am in favor of the amendment of the gentleman from Doniphan. Without some amendment of the kind, the operation will be this: Capitalists of New York, Boston and Philadelphia will get Kansas stocks, paying for them perhaps only ten per cent; then come out here and make deposits with the Comptroller, drawing interest on these stocks; then get their paper issue purporting to come from a bank located at Waubonse, or somewhere, and go with it into Wall street, or where they please. I agree with the gentleman that we ought to confine the direction of these banks to the people of Kansas.

Mr. HOUSTON now withdrew his amendment.

Mr. HUTCHINSON. The argument was well presented, that we ought to give the preference to Kansas stocks over those of other States. For similar reasons I am in favor of giving a fair showing and all possible advantages under our banking system to the people of this Territory, to the exclusion of non-residents. I propose to amend the amendment of the gentleman from Doniphan, by way of substitute, in the following words: "and resident house-holders of this State shall always have preference over the non-residents in taking the capital stock of any bank."

Mr. WRIGLEY. I am opposed to the substitute and still in favor of the amendment. I had expected those more familiar with the subject than I, would have taken the matter in hand. I believe the amendment I have offered covers the ground—I believe its operations will be beneficial for the people. Banks are very suspicious institutions, the best way we can fix them. They are dangerous animals, apt to do injury, and cannot be too strictly and carefully guarded. If banking be encouraged at all it should be for the benefit of the people. If any locality wants a bank, surely there will be enough capital in the county to take a majority of the stock. The presence of capital is the best evidence that the people desire a bank. But to allow these stock-mongers to come among us, fix upon some point where there is no bank and locate there, is sufficient evidence to my mind that all is not right. It strikes me that it is a good provision to require a majority of the stockholders to live in the county. The gentleman from Anderson (Mr. Blunt) says that the Indiana system had nothing in common with our system. [He reads the Constitutional provision authorizing the Indiana law]. If my recollection serves me the free banking law of Indiana which was enacted under this provision, provided that dollar for dollar should be deposited in stocks with the Auditor, to secure [*20] the circula*tion, which is very similar to that under consideration. They also had that other provision, that in case of depreciation the Auditor should require still further security. But these banks failed, and frequently this trash was circulating when it could not even be found out where their banks were located.

Mr. STIARWALT. It merely requires that a majority of the stock shall be owned in the county where the bank is located—that a majority of the directors shall reside in the county. So far as my experience goes, this would naturally be the case. I have observed that in all safe bank management it is arranged so that the directors can meet once a week. I am in favor of the original amendment, and I don't know that I could object to the substitute of the gentleman from Douglas (Mr. Hutchinson). I think a majority of the directors should reside near on account of the necessity for frequent meeting. The old law of Missouri required all bank directors to meet once a week.

Mr. BLUNT. The amendment, says stockholders.

Mr. STIARWALT. But stockholders are always directors.

Mr. PRESIDENT WINCHELL. I would ask whether it would not be very easy for a majority of the stockholders to live outside of the county, and a majority of the directors to live in it?

Mr. J. BLOOD. Mr. President, I have no objection to either of the propositions. I think there are many good reasons why the first proposition should prevail. There are some States where general banking laws exist, where banks are located in remote parts, and the stockholders all live in the great cities—in many instances, perhaps, they are not even residents of the State. I know of some cases of that kind. Their security stocks are

deposited with the Comptroller—they have an office rented in some remote part—arrangements are thus made to comply with, or to evade the law—and so they put their notes in circulation. To restrict this practice I think the amendment of the gentleman from Doniphan a very good proposition, and I have no objection to the other as additional.

Mr. MCCLELLAND. I think it very important that a majority of the stockholders should reside in the county, and that this may stand alone, I shall vote against the substitute.

The substitute was rejected.

Mr. HUTCHINSON. Mr. President, I now propose the same matter as an amendment to be added to the clause proposed by the gentleman from Doniphan.

Mr. WRIGLEY. I accept.

Mr. INGALLS. I propose "inhabitants" instead of "stockholders."

The proposition was agreed to.

Mr. HOUSTON now again submitted his motion to make it read "State" instead of "County" in Mr. Wrigley's proposition.

Mr. J. BLOOD. Mr. President, I hope the motion will not prevail; for the reason that the large capitalists at Leavenworth, for instance, might establish a bank in Riley county, and gentlemen would find that they would control it, not for the benefit of the residents of Riley county. I would have no bank thrust upon the people of any county by non-residents.

Mr. BURRIS. Mr. Chairman, from facts already indicated in the debate the gentlemen offering these amendments are in favor of promoting legislation that will be hostile to the banks. They are also in favor, for security, of such State stock as that of the State of Kansas and of the United States. It seems to me, this being the case, that if we are to have banks in the State of Kansas and their circulation is to be secured in such a manner, I cannot see for the life of me any necessity for the stockholders or a majority of them residing within the limits of the county. Such reasoning might be good before the Legislature which might be passing a special banking law. But what difference does it make to the note-holder whether the stockholders reside in the county or at Leavenworth? The design is to have a circulating medium—to have bank bills in circulation, and have them well secured—and that end will be attained just as certainly and effectively by having the word "State" as by having the [*21] word *"County." It is true that there might be wealth enough in any county in which a bank is proposed to be established to secure a majority of the stock; but then it might not be of that peculiar character which could purchase a sufficient amount of the peculiar bonds required for security. In that case, I would say, let subscribers or stock come in from other parts of the State. So we know the bills are secure, that is all we want.

Mr. HOUSTON. Mr. Chairman, I am pretty near or quite a hard money man. I have in my possession a five dollar bill that I got the other day which is worthless. And I think if we establish a system of banking and do not guard it well, that there will be a good many such five dollar bills lost as well as mine. I think with the gentleman from Leavenworth that it is almost or quite impossible to establish a system of banking but what will result disastrously. But still, sir, if you are going to have the thing, I want some of its advantages. If you are going to have it, and it is a good thing, let us have a little of it up with us. My reasons for proposing the word "State" were that the resources of many of the counties must be for

some time to come entirely too restricted to control a bank, and the word "State" would include a wider area. Yet, at the same time we must be able to get hold of the property of the individual stockholder. I hope some gentleman will propose to make the bankers individually liable. I want a majority of them in the State so that we may get at them.

Mr. President Winchell. Mr. Chairman, I am in no way surprised that this proposition has emanated from the quarter it has, and that it is sustained entirely by gentlemen who hail from large towns and the river counties. For the practical working of the proposition must be to confine the location of banks to the seats of capital. Nothing is more apparent than that, by a provision of this sort, the rural districts cannot be accommodated with banks the security of whose circulation they are acquainted with. I live myself in a rural district, and am opposed to any provision in the Constitution calculated to prevent the influx of capital from abroad. The question now is, whether these banking institutions shall be distributed throughout the State or confined to the centers of capital. As the gentleman from Johnson (Mr. Burris) has remarked, what difference can it make to the people whether banking is established by capitalists in the immediate vicinity or from abroad? It seems to me that the effect of the amendment would be to say in advance that no man shall come into the country to do business except those who are in it already. The other proposition, which I advocate, invites them to come in. You might as well legislate against gold coming in from Pike's Peak. Provided the system of banking we propose is a good, sound system—supposing that to be settled—I ask whether it is not fair to the people that these banking institutions should be located throughout the State, subject only to section six, which provides that they shall keep an office at some convenient point in the State?

Mr. J. Blood. Mr. Chairman, there are some reasons why I think that this policy of allowing banks to be located conveniently is objectionable. It may not work to the advantage of the entire country for these reasons: The capitalists in large towns may keep office anywhere to comply with the law. The money is to be circulated in the large towns or wheresoever, so as not readily to come back to the place where the bank is located. The place is so remote that it is difficult to return the notes to the bank for redemption.

Mr. Wrigley. The gentleman from Osage says to the Convention that he is not surprised that this proposition should come from the river counties and should meet with the support of delegates from the river counties.

Mr. Winchell. I said from gentlemen hailing from large centres of trade and capital.

Mr. Wrigley. While I happen to hail from a city of fifteen or twenty thousand inhabitants, I still belong to the rural districts, and it was for the protection of the rural districts that I offered the amendment. I do not think my proposition is to benefit the larger towns. I think, on the contrary, that it will be for the interest of the larger cities to defeat it. Because if banking be profitable, and if these bonds cannot be bought up at a nominal price, it will not be for the interest of capital to invest in them. If so, wherever capital is concentrated, there will be the place [in which the] greatest interest will be felt in establishing these banks. If this be true then surely the larger towns and cities are interested in opposing this amendment. I think the best way of banking in the rural districts is to confine the majority of stockholders to the country. I think the object

of the Convention in establishing a banking principle must be for the benefit of the people and not for the purpose of making money. And if it is for the benefit of the people, how are you to ascertain where it is for the advantage of any people to have a bank? Whenever the wealth and [*22] resources of any county shall need a bank, the *demand will be immediate, and the wealth and resources of the locality should direct and say where it shall be established. I offered this amendment merely for the purpose of preventing banks from being established for the benefit of capitalists. The gentleman from Riley (Mr. Houston) proposes to substitute the word "State" instead of "County." In my judgment this would defeat the object. He says if banks be a good thing, he wants a little himself. In reply to him I would say that he derives the greatest benefit from banks who has the least to do with them. But, Mr. Chairman, as I have said before, I am not familiar with this subject. I would like to hear from the grey-headed men. I think I can easily see how the bonds of the future State may fluctuate and sell at a discount. Capitalists will buy them up for the very purpose of establishing banks in the different parts of the State. They can be bought say at fifty cents on the dollar, and they will be deposited with the Auditor dollar for dollar, and so a bank is located at Fort Riley.

Mr. PREST. WINCHELL. The bill provides that they shall be deposited at their current value at the New York Stock Exchange.

Mr. WRIGLEY. I think the gentleman from Riley happily hit this section when he showed how they would be bought up and how they would be raised to par value by the offer of the capitalists themselves, how quoted at par, and when so quoted deposited with the Auditor to constitute the basis or security upon which their bills are to be issued. It may so happen, or it may not happen, that these bonds will be depreciated and new security required. And if new security is required and given, the bonds might still be bought up at their depreciated value. At any rate such would not be a safe principle. No sound principle is illustrated here. But I say if the natural wants of a people require a bank, let them have it and control it, but do not give encouragement to a system which shall induce capitalists from abroad to speculate upon the hard earnings of the people. Therefore, I submit my amendment. I desire to see this thing as strictly guarded as possible. The substitution of the word "State" would defeat the object.

On the motion of Mr. HUTCHINSON the Committee now rose and the Chairman, under instructions reported progress to the Convention and asked and obtained leave to sit again.

KANSAS CLAIMS.

The PRESIDENT laid before the Convention the report of the Commissioners for examination and adjustment of the claims of citizens of Kansas on account of property destroyed in the recent political troubles, stating that it was desirable to have action with reference to the printing thereof.

Mr. SLOUGH moved that it lie on the table and be printed.

Mr. GRIFFITH moved that the report be referred again to the commissioners and that they be requested to cause 2000 copies thereof to be printed as soon as possible for the use of this body.

Mr. HUTCHINSON stated that there were 500 claimants whose names appear in these records, and lists of claimants, and that 2000 copies of the report would be a very small number.

Mr. SLOUGH understanding that the commissioners were authorized to print, withdrew his motion.

Mr. GRIFFITH's motion was adopted.

ADJOURNMENT OF THE SESSION.

Mr. STINSON. Mr. President, I offer the following resolution, and move its reference to a special committee of thirteen:

Resolved, That when this Convention adjourn to-morrow, it adjourn until the 13th day of September next, and that all resolutions inconsistent herewith be rescinded.

On the motion of Mr. GRAHAM it was laid on the table.

On the motion of Mr. THACHER, it was

Ordered, That the report of the Committee on Corporations and Banking be made the special order for to-morrow morning at the opening of the Convention.

The Convention then adjourned till to-morrow morning at 9 o'clock.

TUESDAY, July 12, 1859.

The Convention met at 9 o'clock A. M.

Prayer by the Chaplain.

The journal of yesterday was read by the Secretary, and approved.

COMMITTEE ON ACCOUNTS.

The PRESIDENT announced the following Committee on Accounts, approved under a resolution of the Convention: Messrs. N. C. Blood, Middleton, Hanway, Palmer and McClelland.

NEBRASKA DELEGATION.

Mr. GREER, from the Committee on Credentials (the special order having been suspended for the purpose) reported the following:

[*23] **Resolved*, That Messrs. Nichols, Reeves, Furnas, Hewett, Keeting, Chambers, Taylor, Niles, Croxton, Cheever, Bennett, Dawson and Doan, whose credentials have been handed to this Convention as delegates from that part of Nebraska, south of the Platte river, be admitted to seats on the floor of this Convention, as honorary members of this Convention, with the privilege of participating in the discussion of the subject of the northern boundary of the State of Kansas.

The resolution was adopted, and accordingly it was ordered, that the Sergeant-at-arms provide seats for the members of said delegation.

Mr. GREER, from the Committee on Rules (under the same dispensation) reported [an] amendment of the rules regulating the demand for the yeas and nays.

The amendment was adopted.

NEW ENGLAND EMIGRANT AID SOCIETY.

Mr. HOUSTON (under a further dispensation of the special order) presented the petition of the New England Emigrant Aid Society, representing that said company caused to be built in the town of Lawrence, K. T., a large stone building known as the Free State Hotel, at an expense of $20,000; that, on the 20th of May, 1856, said hotel was entirely destroyed by an armed mob; that these memorialists are excluded from any benefit

of the act of the Territorial Legislature, creating a commission for the examination and adjustment of claims, because they are not citizens of the Territory; and they desire that by the action of the Convention their claim may be included.

On the motion of Mr. HOUSTON, the memorial was referred to the committee on ordinance.

CORPORATIONS AND BANKING.

On the motion of Mr. SLOUGH, the Convention now proceeded with the special order, and in Committee of the Whole (Mr. Thacher in the Chair) took up again the consideration of the committee on Corporations and Banking, the question being on Mr. Houston's amendment to Mr. Wrigley's amendment, substituting "State" for "County."

Mr. HOUSTON's amendment, was adopted.

Mr. INGALLS proposed to amend Mr. Hutchinson's amendment by inserting "inhabitants," instead of "householders," which was also adopted.

Mr. WRIGLEY, acquiescing in the above modifications, proposed the following by way of substitute for his proposition:

"One half, at least, of the stock of any bank, shall be owned by inhabitants of the State, and a majority of the stockholders of any bank shall be inhabitants of the State in which the bank is located."

Mr. STINSON. Mr. Chairman, I hope the substitute will not carry. It seems to me that this is offered to break down the system we propose to inaugurate. I desire to have a practical system, or none at all. I will not vote for a system that cannot be carried out. I cannot see the object of the amendment, unless it is that which gentleman avow in their speeches, and that is, hostility to banks; and they desire to hamper it so that we cannot establish a system of banking. I shall not stultify myself by voting for such obstructions. I say that if you require a majority of the stockholders to reside in the county or State we cannot have a bank. This is also an attempt to depreciate our bonds, for it would be taking them out of the market. We say to eastern capitalists, you shall not have the bonds of the State of Kansas, for this purpose; and this—for the purpose of getting our bonds favorably into the market—is one of the principal reasons why the Convention have adopted the system.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I concur entirely in the remarks of the gentleman from Leavenworth. It has been very evident since this discussion commenced, that these amendments have originated [*24] with those opposed *to the system, and, so far as I know, not one who has acted with us on this question has supported them. These gentlemen have invariably evinced their hostility to the banking system. Any gentleman who really desires a sound system, will not, I think, vote for these amendments. I know that in all the rural districts of the State they will be dependent upon capital from abroad, provided the resources of the State are to be developed as they should be. In my section where we have large deposits of coal, we are looking to the establishment of manufactures as well as banks, and in this also we shall be dependent upon foreign capital, and we desire capitalists from the east—the bankers in Wall Street—to come in and increase our circulating medium, so as to enable us to become independent in our manufactures. But it is proposed to so cripple the system as to render it practically useless. If we are opposed to the system we will vote for these amendments—but I would say to the friends of the system, do not let us deal it a blow in the back.

Mr. WRIGLEY. The gentleman is entirely mistaken. This amendment was offered without consultation with any member. I am not hostile to a sound banking system. Whether the amendment has been supported by those who are opposed to banks, is more than I know. I am desirous of inaugurating such a system of banking that shall confer a public blessing, shall protect the people in their rights, and shall be so guarded as to prevent those enormous frauds so easily committed by banks.

The gentleman speaks of the rural districts. If there be towns and cities in the State where capital is concentrated, it is for the interest of such localities to oppose this amendment; and I can see the propriety of the opposition of the gentleman from Leavenworth (Mr. Stinson). If these banks go into operation, what will they do? They will set up banking at points remote from Leavenworth and the larger towns. Well, these bonds which they will deposit will become depreciated. Their bills among the people will become useless. You, sir, or myself, might chance to have in possession a quantity of these bills—suppose the sum of $500—neither of us would take the trouble of going to Pike's Peak for the purpose of presenting them for redemption, or for bringing any sort of action against the bank. The only adequate protection or safeguard, as I conceive, is to confine the stockholders to the county.

The gentleman from Osage tells us of his resources of coal, and want of capital to develop. All I can say is, let him dig his coal, or let him cultivate the soil. It is from the soil that the wealth of the country is to flow. Let capital be employed in some laudable enterprise—not for the purpose of speculating upon the people. And a bank never will be needed in any locality where the county cannot purchase a majority of the stock. I know the amendment of the gentleman from Riley (Mr. Houston) which the Convention has adopted, striking out the word "county" and inserting the word "State" has nearly defeated the object, but still it will secure some safeguard.

Mr. J. BLOOD. Mr. Chairman, I may have been misunderstood by the gentleman from Osage. I am not here, sir, except to express my individual views. I am in favor of this Convention establishing some good, safe system of banking. I am only anxious that the bill holder shall be made secure, and always able readily to convert the currency of the banks into money. And for that reason, I was in favor of confining the stockholders and directors to the county in which the bank is located. But the Convention decided against that. I may, at the proper time, submit another amendment, requiring the question of the ratification of any law with regard to the establishment of a bank to be submitted to the people.

Mr. CROCKER. Mr. Chairman, I disclaim all intention of putting [a] rider on this bill. I do not disclaim being an anti-bank man; but [*25] *because I believe the people desire the establishment of banking, I am in favor here of a sound system. I shall vote for such a system as I think will best subserve the interests of the people.

Mr. HOUSTON. I do not profess fully to understand the banking business; therefore, I do not rise for the purpose of presenting my views as better than those of other men. I have said I was opposed to the banking system. Generally I am, but I am not opposed to sound banking. But when I see a system advocated which I think will prove unsound and unsafe, I think I ought not to be charged with being an enemy to sound banking, simply because I want to prevent its adoption.

Sir, I was led this morning to look a little into the history of banking in England, and I find that in a few years almost all the banks in England

went down except the Bank of England. From this I apprehend that my idea of a sound banking system is hardly applicable to that country. The Bank of England sustained herself because she had the patronage of the government and the influence of Parliament to support her. Men of wealth, influence and power had control, and the institution was sustained by judicious management. When such banks, carefully and properly guarded, go into operation, when they see danger in the future, and find that they have a large amount of their paper in circulation, they prudently contract their issues, whilst, on the contrary, the wild-cat concerns commonly play up most at such times and make the longest pretensions, but all prudent men know that the time must come when they cannot meet their liabilities. It is a common thing for men to subscribe 5,000 or 6,000 dollars of such bank stock, and then borrow the money to pay it in, and it is sometimes the case that the same money has thus paid the dues of several individuals, in order to enable them to economize in their banking operations; and banks have borrowed money to pay their notes, till the hour has arrived when they can no longer meet their issues, and then the people suffer the consequence. I wish to guard the system as far as possible, by confining the directorship at home, and I have changed my mind only in regard to the word "State." I conceive that if Riley county wants a bank, and has not enough wealth, it would be well to let them come in from other counties; and now I want to see a provision that the private property of the stockholders shall be held responsible for their debts.

Mr. GREER. I happen to know of those who, in the abstract, are opposed to banking of all kinds. Yet I am not here for the purpose of insisting on the adoption of my particular views on this question. I am willing to submit to the will of the majority; yet I am in favor of every possible restriction and limitation that can be placed upon banking, which has for its object the security of the bill-holder by the prevention of an undue amount of paper being thrown upon the country. I regard banking as exceedingly expensive to the people, and I might say a necessary evil—if it is necessary to have banks at all. There is no banking system but what the people are bound to pay from 20 to 30 per cent. on the whole amount of currency thus thrown into the community. Perhaps there is no banking system that can be devised but will cost the people for a circulating medium at least 25 per cent. Taking banks as a necessary evil, I deem it the duty of this Convention to restrict the business of banking in every possible shape that it can bear, so as not to defeat it entirely. At present, in committee of the whole, I believe we have adopted the proposition to confine the stock basis of banking to the stocks of the United States and of the State of Kansas. At the proper time, I apprehend this proposition may be changed so as to allow the stocks of other States to be used. And if that be done, it seems to me that the object of the gentleman from Osage (Mr. Prest. Winchell) will be attained. I am in favor of the amendment of the gentle-
[*26] man from Doniphan, and if we cannot get up what I conceive *to be a safe and sound banking system, I think it were better to have none at all. This is my view. An unsound and unsafe banking system is worse than no system at all. I confess that I cannot see much distinction between allowing the brokers in Wall street to come here and issue their money and put it in circulation in Wall street, and in their issuing their money and putting it in circulation here. It amounts to about the same thing as far as the people of Kansas can be concerned. For these reasons I favor the idea of restricting the stockholders to the limits of the State, and I admit that a majority should reside in the county where the bank shall be established.

Mr. PARKS. I think there is a verbal alteration that ought to be made, which requires a modification of the phrase "in which the bank is located." This phrase occurs twice.

Mr. HUTCHINSON. I am still in favor of the original proposition. I am sure, sir, that our debate here will do no harm; and I think I can see the effect of the debate of yesterday. Whether it is the debate or other convictions that have changed the minds of gentlemen, I am unable to say. Certainly, matters relating to the future currency are of the highest importance. It is one of the attributes of sovereignty. It has been said to know the music of a state or nation is to know the people of that state or nation; and I think that it might be as truly said that, to know the money-currency of a people is to know the moral character of that people. If the currency is sound and healthy, it will circulate through every fibre of the body politic, and its effects will be seen in intelligent and vigorous action. But if we carry out, at this period of our history, the opposite principle, and give encouragement to the wild-cat currency, it will be seen and felt in every department. There is no other principle but that which makes the basis of banking secure that accords with sound commercial principles. The nearer we can make the currency of the nature of ordinary bills of exchange the better. It is well known that the trade of the world, especially the trade of the West, is carried on almost entirely by means of bills of exchange. More than a thousand million of dollars, annually pass from hand to hand under that name. The paper circulation of the world is less than one to ten in comparison. Although bills of exchange are ten times greater in amount than the bank paper circulation, who ever heard of the money fluctuations of the country referred to bills of exchange as a cause? No, sir, it is the paper currency that causes money panics, and it causes them for want of a proper protection and a proper security for the note-holder. And the more gold we have the more paper we will have—that is history. When we have given preference of stock to the people of the State or the county, I think we have gone far enough. I am opposed to these positive limitations, requiring specifically one-half or three-fourths of the bank stock to be owned in the State, and I shall vote against it, although it may destroy the object of the system. The provision of the substitute was not in the original amendment. Therefore I am opposed to the substitute.

Mr. BLUNT. Mr. Chairman, if I understand the proposition, it is for the purpose of restricting at least one-half of the banking capital to the future State; and I think the proposition is worthy of consideration. I do not believe this proposition comes from hostility to all banks, or from a desire to cripple the banking system. But the object is to protect the citizens of this Territory against the abuses of banking privileges. I think it is the judgment of the committee to establish a banking system for the future State, and certainly it is proper in such a system to introduce the best guaranties we can to secure the bill-holder. I am not disposed to prevent capitalists from abroad from taking part in our banking enterprises, yet I do think that, by the time our banking system shall be developed, we will have in the proposed State a sufficient amount of capital to command the direction of the bank; or, in other words, that there will be in the State [*27] more than *one-half the necessary capital to take all the stock that will be offered in the market; and while I am not willing to confine the subscribers to quite so narrow limits as the county, yet I am willing to confine it to the boundaries of the State—that at least one-half of the capital stock of our banks should be owned in the State. And while this would afford facilities and opportunities for foreign bankers to come in and

invest, it would reserve to our own people the control of these institutions, which I think essentially necessary for their welfare and the public good. Although I do not profess to have much experimental knowledge of banking, yet from a hasty view, I believe the proposition of the gentleman, as amended by the committee, to be a good one, and I shall vote for it.

Mr. Wrigley's substitute for his amendment was rejected.

Mr. PRESIDENT WINCHELL. An argument has been made here with reference to one point which does not seem to be covered by the section, and with reference to which I shall submit an amendment, with some doubt myself, I confess, as to its propriety. But after some reflection, I think action should be taken on it. I move to amend, by adding, "And shall, at all times, be required to redeem their circulation in the city of Leavenworth, at a discount not greater than one per centum."

Mr. GRAHAM proposed "Atchison" instead of "Leavenworth."

Mr. PRESIDENT WINCHELL. I insert Leavenworth as being the commercial emporium of the Territory at present. I would be willing to leave it to the Legislature to say where the redemption shall take place—whether at Leavenworth, or Atchison, or Lawrence.

The CHAIRMAN. Would it not conflict with other matter in this report (sec. 6) which covers that point?

Mr. WINCHELL. I propose to add that they shall discount at a rate not greater than one per cent. in the city of Leavenworth. The principle has been adopted in various States, as in the State of New York, with this difference, that they are required in that State to redeem at a discount not greater than one-fourth of one per cent.

Mr. GRAHAM's amendment was rejected.

Mr. J. BLOOD proposed "Lawrence," which was rejected.

Mr. PRESIDENT WINCHELL. The object is to prevent the bill holders from being victimized by the brokers. Without this, the people who shall hold the money will not be able to use it without suffering a discount on it of four or five per cent. The single object is to protect the bill holder against any such extortion.

Mr. HUTCHINSON. From my observation of the working of that system it would be deleterious. The effect would be to create a species of monopoly, so that Leavenworth would carry her iron rule over the whole Territory; and all the banks located elsewhere would become tributary to them, and it would prevent the location of new banks. Now we do not ask any such advantage. We want every bank to be placed on an equal footing. The proposition would work well for Leavenworth, but not for the remainder of the Territory.

Mr. MCCLELLAND. I think the gentleman from Osage has a good amendment, from the fact that such a thing is necessary at that commercial point. Persons going east with money on western banks, would not be subject to the heavy shave which otherwise they might be compelled to suffer.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I desire to correct a misunderstanding on the part of the gentleman from Douglas (Mr. Hutchinson). It is certainly not intended to create monopoly. It is to limit the per cent. of profit. It is not obligatory on any bank to make an agency in Leavenworth. The business might be done by any private banker, or one in their own employ. The one per cent. will be sufficient compensation for the work. It is too late to urge that this system is deleterious in its

[*28] effects. It has been proved salutary in other *States; and if in the State of New York the discount is fixed at one-fourth of one per cent., it seems to me that one per cent. ought to be enough in Kansas. The practical operation will be this: the notes of Manhattan will always be redeemable in the city of Leavenworth at one per cent., and at other points, as Atchison, Wyandotte, Lawrence, &c., at one and a half or two per cent.—a very little greater than at Leavenworth—whither they will be transmitted at a small profit on the transaction. Thus it will equalize discounts, and bring all our bank notes as near to the condition of par as possible.

Mr. J. BLOOD. I am surprised that such a proposition as this should come from one who has manifested so much care for the rural districts. It is a proposition that would make the whole banking interest of the Territory tributary to Leavenworth. It would require every bank to keep deposits at Leavenworth for the redemption of their money. It would give the banks at Leavenworth at least two per cent. advantage over those of the rural districts. And I think if the banks in the country were required to discount at five per cent., it would be little enough. There are some questions right in themselves, whilst the propriety of adopting them may be doubtful. It is probable that the experience of other States has shown that some such necessity as that indicated in this proposition exists. But it is just as certain, in my judgment, that the commercial center of this Territory has not yet been fixed. That center must be determined by the laying out of the course of trade, by the location of the railroads, and lines of internal improvement. And wherever that commercial centre shall be, there will be the place where this currency should be established.

Mr. HUTCHINSON. The gentleman from Osage has convinced me that the position I took was correct; that is, that under his proposition, every other bank in the Territory must be compelled to pay tribute to Leavenworth. Now, what can be more necessary for the Bank of Manhattan, for instance, for the purpose of enabling them to keep their currency at par, than for them to keep in the confidence of the banking institutions at Leavenworth? Let them pay tribute enough and all will be right. I cannot characterize it better than to call it a relic of the times when personal security was the rule, and not stock security. We must have a better basis for our system than personal security—better than that to be furnished by the mere pet confidence dependent on the caprice of individual corporations at Leavenworth. Let an interior corporation once get the ill-will of Leavenworth, and with the great commercial power this would place in their hands, they would throw out their circulation and put it down in a week. It would be making every other bank established and to be established in the State completely subservient to Leavenworth.

The amendment (Pike's Peak) was rejected.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I would suggest that if it is considered that this is tying up the hands of the Legislature, "the Capital of the State" might be substituted for "Leavenworth."

Mr. BLUNT proposed "Wyandotte." (No second).

Mr. PORTER proposed to strike out "Leavenworth," and insert, "at some point to be fixed by law."

This was agreed to.

Mr. GRAHAM. If I understand the amendment now, the notes are to be redeemed at one per cent. discount. Sir, I come here as the friend of the note-holders, and to guard their interests. It strikes me that, in prac-

tice, this will not benefit the note-holder. I am not in favor of making banking institutions any more for the advantage of the speculator than for the note-holder. I move to strike out "one per cent." and insert "at par."

[*29] *This was agreed to.

Mr. PRESIDENT WINCHELL. I move now, that the amendment be rejected, the object being defeated, which was to prevent the bill holder from being victimized by the broker.

Mr. Ross made an ineffectual motion to reconsider the last vote.

The original amendment (Mr. Winchell's) was then rejected.

Mr. J. BLOOD. At the proper time, I shall propose to amend by way of additional section, to this effect: "Sec. ———. No such general banking law shall have any force or effect until the same shall be submitted to the electors of the State at some general election, and it shall have been approved by a majority of the votes cast at such election."

Mr. SLOUGH offered the following amendment to section 6th: Strike out "Some convenient point within the State," and insert: "A place within the State to be named on the bank notes issued by such banks, and."

Mr. GRAHAM. All bank notes, on the face of them, say where they are payable—at their banking house.

Mr. SLOUGH. The point is to render the section clear—so that the bill-holder may know where the bills are redeemed.

Mr. PRESIDENT WINCHELL. I would suggest to the gentleman whether it would not be better to add: "At some convenient place in the State."

Mr. SLOUGH. I have no objection. I accept that.

Mr. BLUNT offered the following amendment:

"All banks shall be required to keep their officers and offices for the issue and redemption of their circulation at some point in the county in which such bank may be established."

It was rejected.

Mr. BURRIS offered the following:

"I move to amend section 6th by inserting the words "at par" between the word "circulation" and "at" in the 28th line."

It was also rejected.

Mr. CROCKER offered the following amendment:

Add these words: "All [at] the capital of the State of Kansas and such other points as the Legislature may direct.

Mr. PRESIDENT WINCHELL. I see a difficulty in this. It would in effect require the bank to issue and redeem its notes at the capital—to keep a bank at the capital, besides its own banking house.

Mr. CROCKER. It is only an office of redemption; but I withdraw it. I see the discrepancy.

The original section was then agreed to.

Mr. J. BLOOD withdrew the additional section he had read.

Mr. GREER offered the following as an additional section:

SEC. 7. No banking institution shall issue bills of a less denomination than five dollars.

Mr. PARKS moved to strike out "five" and insert "ten."

The amendment was rejected.

Mr. PRESIDENT WINCHELL moved to strike out all after the word "bills." (No second).

Mr. WINCHELL. I wish merely to say, that there have been several things destroyed here by making amendments that have destroyed their effect, and I thought I would see how it would work on the other side. I withdraw the amendment.

Mr. HUTCHINSON moved to lay the amendment of Mr. Greer, of Shawnee, upon the table. The motion was rejected, and the question recurring on the original section of Mr. Greer, it was adopted.

Mr. WINCHELL moved to add the following:

SEC. 8. No bank organized under these provisions shall loan money at a higher rate of interest than fifteen per cent. per annum.

Mr. STINSON. I think the gentleman from Osage has turned against banks. No man will invest his capital in this Territory when he can get thirty per cent. for it outside.

[*30] Mr. PRESIDENT WINCHELL. I have no expec*tation, Mr. Chairman, that the section will carry. I have seen a disposition on the part of the people to submit to these extortions. The rates of interest convince me that they will submit. But I desire to take the true position—to keep down the rate of interest to the standard of business on borrowed capital. At the rates now demanded, no man can do a legitimate business. The effect is to limit borrowing money to speculators.

Mr. J. BLOOD. I think that it is a proper subject for legislation, and should be left to the Legislature. As I suppose it will be provided that any banking law passed by the Legislature shall be submitted to the people, I am opposed to this being inserted in the Constitution.

The proposed section was rejected.

Mr. WRIGLEY submitted the following:

"SEC. 9. No bank shall be allowed with less than fifty thousand dollars capital."

It was rejected.

Mr. McDOWELL offered the following:

"SEC. ———. No debt can be paid by the issues of foreign banks, and the Legislature shall authorize the creditor in all cases to recover by suit any indebtedness notwithstanding he may have received the amount thereof from his debtor in such foreign bank bills."

Mr. McDOWELL. The object is to prevent the circulation of foreign bank notes in this State. I am satisfied that this object cannot be consummated by any ordinary act of the Legislature, prohibiting such circulation under a money penalty. I have seen legislation of that sort in the State of Ohio. It became a dead letter. My experience is, that the great majority of note-holders who suffer from the rottenness of banks, are those incurred by losses in notes of banks outside of their own State. It is to prevent this, that I have introduced this section. And it seems to me it strikes at the root of the thing; because no man, if he be sued for indebtedness (which) he tries to cancel by foreign bank bills, will risk the putting out of such bills.

Mr. J. BLOOD moved to insert after the words "foreign banks" the words "of a less denomination than five dollars."

Mr. J. BLOOD. That is to place the foreign banks on the same footing with our own. Without some provision that shall exclude the notes of

foreign banks, I think their notes of various denominations will be sent in upon us to make up the want of small notes, the issue of our banks.

The amendment was adopted: and the question recurring on the amendment of Mr. McDowell as amended, it was also adopted.

Mr. GRAHAM. I move a reconsideration of this vote. Certainly gentlemen cannot intend to introduce a proposition to kill the whole system. Let us not authorize a system of banking, and then put into the Constitution a provision that will utterly defeat that object. This new section is entirely foreign matter and should be voted down.

The motion to reconsider was agreed to, and the question recurred on the adoption of the section.

Mr. STINSON moved to insert the word "ten" instead of "five": but—

On the motion of Mr. GRAHAM, the section and amendment were laid on the table.

On motion of Mr. MCCLELLAND section 7 in the report was changed to section 8.

Mr. MCDOWELL offered the following to be added to the report:

SEC. ———. No bank shall be allowed to loan or deal in the notes of any foreign bank."

It was rejected.

Mr. BLOOD moved that the following section be added:

"SEC. 9. No such general banking law shall have any force or effect until the same shall have been submitted to a vote of the electors of the State at some general election, and been approved by a majority of all the votes cast at such election."

It was adopted.

On motion by Mr. SLOUGH the committee then rose, and the Chairman [*31] reported the *foregoing amendments, recommending their adoption by the Convention.

On motion by Mr. SLOUGH it was ordered, that the report and amendments be now considered section by section.

CORPORATIONS.

The first section of the corporation chapter was adopted.

The second section, as amended in committee of the whole, having been read by the Secretary—

Mr. THACHER moved to restore the words stricken from the amended section on the motion of Mr. President Winchell, viz: "Irrespective of any benefit on account of any improvement by such corporation."

Mr. THACHER. Mr. President, it appears to me that this act of striking out the words mentioned in my motion was somewhat hasty. We find this provision incorporated in the Constitution of the State of Ohio. The same salutary and wise provision is found in the Statutes of New York. When the Erie Canal was constructed through that State, the canal appraisers were instructed to take into consideration the advantages of the canal to those whose lands it was to pass through. The consequence was that many a man had his farm well nigh ruined, and was compelled to make the contribution to the general welfare without compensation. It is known that it is almost impossible to find a jury willing to assess honest, *bona fide* damages in such cases. If it should be proposed to build a railroad through any of our beautiful valleys, and send the iron horse careering

through the land, the whole community would be alive with excitement and demonstrations of joy. The private losses of the few whose property is taken for the corporate use, would be carelessly brushed from the public view by the enthusiasm of the many, who are to reap rich benefits from the improvement. If now, one of these few men should ask most any jury of men of like passions with ourselves, who are among those receiving the advantages of this improvement without any sacrifice, they will, if they are to take into consideration the benefits flowing from the proposed improvement, under the excitement of the moment, render merely nominal damages; and hence you tax the property of one man for the benefit of those whose property is not taken. You take private property without compensation for the use of a corporation and for the benefit of the neighbors of the sufferers. In the State of New York they were compelled to make the provision, that in assessing damages the jury shall not consider the advantages of the improvement of the individual. And the same thing has been done in Ohio. The improvement, say a railroad, does not so much benefit the man through whose property it passes, as it does the man near by, through whose soil it does not pass. The man whose farm is a mile from the railway is benefited incomparably more than he whose fields are plowed up and disfigured by the track. Hence I insist that the Convention should not inflict this wrong upon the rights of property in the fundamental law. If one man's property may be taken for the benefit of the community, as well might the whole community be taxed for the benefit of the individual; since the corporation confers the same benefits upon the whole it does upon the one—compensation; which is a principle that no man will concede.

The amendment was agreed to—the words restored; and so the section was passed.

Sections 3, 4, 5 and 6, as reported from the committee of the whole, were also adopted.

BANKING AND CURRENCY.

The first section of this chapter, as reported from the committee of the whole, was read by the secretary and adopted.

The second section having been read—

Mr. GRAHAM. Mr. President, I move an amendment, to insert and restore the words "several States" to the place in this section whence they were stricken out. I make this motion as I profess to be here for the pur- [*32] pose *of guarding the interests of the note-holder, in order that he may be sure, when he gets a dollar bank note in his pocket that he has got the equivalent of a gold dollar. It strikes me, sir, that in striking out of the recommendation of the committee on banking and inserting "only the bonds of the State of Kansas and the United States," you have opened a door that will result in the overflow of the circulation of your money in the new State. If I were representing my individual interests here, I would have no objection to its being passed in this shape. For I think I see the object, and the pressure outside brought to bear for this purpose, and its bearings, outdoors, leading on to peculations and fraud. I have never witnessed anything more evident. It is proposed to make the stocks of Kansas and the United States the basis of banking. The stocks of the State of Kansas cannot exceed $100,000. Cannot every one see at once how this will be managed by the bankers? They can go into the market and buy these bonds at some forty or fifty cents on the dollar—buy them up for the purpose of banking. They get hold of these half million of bonds for about $250,000. They will put all the stocks of the State of

Kansas into the hands of two or three individuals, and they will start for Leavenworth, or God knows where; for they have these bonds for the especial purpose of speculators (speculation). Then others of them go into the New York market—one goes to the brokers in Wall street, another into Pearl street. Each of them has a thousand dollars, and thus take care to ring to every man on 'change: "I want to purchase bonds of the State of Kansas." He is answered: "What will you pay for Kansas bonds?" And the first is instructed to say, "Ninety-eight cents on the dollar:" and so it goes upon the record that 98 cents is the cash value of Kansas stocks. They then come right here and deposit their securities with the auditor, and issue their bank paper—two dollars for one that it has cost them. They go to work and keep up the par value of their stocks as long as it suits their convenience—it may be one, two, or three years. They control the par value of these stocks in the New York market, because they have the whole in their hands. But when they shall have got a sufficiency to satisfy their craving appetite for gain, and shall have got their bank notes into the hands of the people, it will be to their interest, perhaps, to let them go down. They will then rush $15,000 to $20,000 of your State stocks into the market, where they will find perhaps, no purchasers for more than 48 or 50 cents on the dollar, and in less than 48 hours they will go down to that figure in the stock reports. The Auditor or Comptroller will then call on these bankers—as it might be upon my friend, Mr. Kingman, here—and say to him, "Sir, your bank circulation has gone down, and you must increase your deposits." Mr. Kingman will reply: "I am sorry to tell you, Mr. Auditor, that I have not yet got the bonds." The Auditor will say again to him: "Then, sir, I must withdraw a portion of your circulation," and Mr. Kingman will tell him again: "I am very sorry to say, that I cannot get that circulation for you: it is all out among the people." And then, sir, there will be parties going round and buying in this circulation at 50 cents on the dollar. Only half the circulation is redeemed—and the other half is lost to the note-holders, for the benefit of speculators. Now, sir, to obviate such a result, we propose to base your stock bank issues on the mixed stocks of the United States and of the several States—as Kansas, Missouri, Ohio, Pennsylvania, New York, &c. We propose this, because no one, two or three individuals can buy up all these various State stocks and control their value in the market of the world. There is no two or three individuals that can get hold of the 20 millions of Missouri stocks, nor the 40 millions of Pennsylvania stocks, so as to make them available for mere speculating purposes. Thus we will have a perfect security, that we cannot be operated upon by designing men. Sir, we have a high public duty devolved upon us here, as repre-
[*33] sentatives of the people in *this Convention. We come here to guard their interests—to make a Constitution for the people, and not for individual speculators and bankers. It strikes me that this duty is so imperative, that every lover of liberty will discharge it here, even though it were to result against himself and his own pocket. I am of the opinion, that on comparing views, we shall be able to get such an instrument framed, as may be justly regarded, not only by ourselves but by our posterity, as the sheet-anchor of our liberties. We are legislating for the organization of a government for the new State of Kansas—a State which has lately passed through a struggle for human freedom, which the historian will place side by side with the events of 1776. Why, then, should we not carry out those principles which the true men of Kansas contended for on all our plains in many well-fought battles. Sir, let us look at things as they are: and when we see our old enemy here, for the purpose

of bringing our action into disrepute among the people, let us watch them. We have here pro-slavery men, men who have legislated for us for years under the Territorial organization, and passed laws for us, of which their own partisan leaders have said, they were not only a disgrace to the men that enacted them; but the history of the world did not present such a batch of laws. I say, we have these men amongst us here; and the Republicans here being responsible for the action of this body, I hope they will look at these things as statesmen, see the importance of the responsibility we are placed under, and act accordingly.

Mr. KINGMAN. Mr. Prest., this is certainly a very important, and at the same time a very delicate question. When we depart, at any time, from that standard of value, which by common consent has been selected as the measure of values—gold and silver—we enter upon a sea rather of experiment and speculation than of settled policy. But the science of government with reference to banks of issue has come to no settled conclusions. It would seem, that however impracticable they may have been, yet in their workings they have been in the main, satisfactory to the commercial and business world; and almost all civilized communities have provided sources of currency other than those universally accepted as the measure of values. Therefore, when we attempt to introduce our views upon this matter, we should approach it without political and partisan feelings, other than those of political philosophers desirous of adopting as between a choice of evils, that system which shall prove the least injurious. We should guard against defects of the banking system as much as possible; and I submit, whether, if personal and political questions are suffered to enter largely into our deliberations, they will not prevent us from arriving at just conclusions. The gentleman from Atchison (Mr. Graham) says he has witnessed an improper outside pressure and wire-working here in connection with this question, and warns the Convention and the country to look out for fraud and corruption. Now, sir, I protest that I have not one dollar in my pocket, and I submit to the gentleman himself, and ask him to declare, what he has seen in my conduct to authorize him to assume that this amendment had its inception in fraud?

Mr. GRAHAM. I said it was opening a door to fraud. I said that with reference to the amendment made in committee of the whole—that it was opening a door to fraud.

Mr. KINGMAN. I am not very sensitive, Mr. President. My honor takes care of itself. I understood the phraseology of the gentleman as looking toward the representative of Brown county, and thought, perhaps, it was due to that people that an explanation should be had. I did not feel that it was due to myself. But there is another class of personal considerations which should not be indulged in connection with this subject to which the gentleman referred. It seemed to be announced by him, that, while on one side of the house we were opening the door to fraud, on the other side—the gentlemen on that side, of course—are here as the peculiar [*34] friends and protectors of the bill holder. I *trust the gentleman is not alone in this feeling, and that he does not seriously mean to claim that all who differ from him are friends and favorers of speculators. For my part, sir, I do not know one man of that class in this body; but, if we want to protect the note holder, two things are necessary: the first is the security of the bases of the bank, and to that the gentleman's attention seems to be entirely directed. He does not seem to see at all the other thing; just as important as this; and that is, immediate convertibility. It is of no consequence to me to know that I hold a ten dollar bill, which

I may have received as my wages, that I know it will in six months be convertible into gold and silver, if my family need it for bread to-morrow. I believe, sir, that nothing of this kind can be secured by any free banking law. But because the system I would desire is impracticable for Kansas because we have not the capital—therefore I am for the best system to secure a currency to meet our growing wants—that shall advance the interests of our commerce and agriculture, and shall at the same time secure the bill holder nearly as well as though he held it in the assurance of immediate convertibility, and I find that in the amendment as reported by the committee of the whole to this house. We have adopted as the basis of our banking the stocks of the United States first. No one can doubt that they are secure and immediately convertible. The same security will not appertain to the stocks of Kansas and the adoption of Kansas bonds as a basis. But then, it should be remembered that Kansas is beginning to be, not a mere dependent Territory, but the centre of a great commercial people. We want to make a demand for those bonds, from year to year, as necessity shall require for loaning, by making the sole basis of our banking to consist in State stocks, thus intertwining the interests of the bond-holders and the bill-holders and tax-payers. It is such views as this (and not the mere talk of being the peculiar friend of the note holder) that I desire to see elaborated here. Sir, this scheme, if carried out, will not prove impracticable, in my judgment. So great will be the demand for our bonds, in connection with our growing trade, that they will be sought for at prices above par. But let us tread cautiously in this matter, and from year to year, from season to season, we shall see our bonds above par, our money made safe beyond the reach of the speculators and brokers—beyond the reach of the men in Wall street and State street—safe, I hope, sir, beyond the contingency of depreciation. All the great interests of this world are not subject to State street nor to Wall street, although I acknowledge their power. The "bulls and bears" may do very many things, and exert a very extensive influence, but the time will come when the men of Wall street will be subordinated to the great commercial power that shall grow up in the centre of this great valley. Let us have a system of currency that shall make our new prairie State the most wealthy and independent, as it is now the most desirable region on the globe. And this, Mr. President, can only be done by a well-conceived and wisely sustained system of Internal Improvements.

Mr. THACHER. Mr. President, there are two radical defects in the proposition as it now stands before the body. The first is patent on its very face. It contemplates that the State shall plunge into debt to an amount sufficient for all the banking facilities we shall require; and I do hope and pray that the State of Kansas may not be $50,000 in debt at any time. Yet to-day, had we a banking system, a currency for the people of less than a quarter of a million would not suffice. Under no circumstances would I consent to encourage a system which contemplates the saddling upon the new State a debt, the ultimate fragment of which will have to be fastened upon our posterity. My friend from Brown (Mr. Kingman) with an eloquence peculiar to himself, has expatiated on the thrift and progress of the new State, and predicated upon these an idea upon which we may bank. I proudly believe that this State of Kansas will be one of the wealthiest in this Union; but I believe that will come in consequence of a wise and healthy and sustained development of our internal resources. I say, our prosperity in Kansas is not predicated on a [*35] *public debt. Our friends in the new State of Minnesota took this view of the gentleman from Brown, and what was the consequence?

Those railroad bonds which were issued in defiance of law, proved a bad business; and the bank notes predicated on these bonds are not really worth the paper. I say again, this proposition proceeds and bases itself upon an assumption of the advantages of a public debt. But my friend says, we have United States stocks also. I admit it. But if a spirit of economy should come over the government of the United States, as I trust it will, the stocks of the United States will at once disappear. But they are used because they are considered safe; and they are always worth from $1.06 to $1.10 and you would compel the banker to pay $110 for every $100 he would get in debt!

I repeat, sir, the first defect of the system is, that it rests on a public debt: and the second defect ignores the true banking basis, which is as well established as any law of commercial life, and that is, the interest-paying stocks of the States. There is not a State in the Union whose banking basis is interest-paying stocks, but whose banks are perfectly good. There is the State of Illinois—her banks are based on interest-paying stocks; and during the revolution which swept over the country two years ago, when so many banks were compelled to go to protest, all the bills of those banks were worth a premium in the streets of Chicago, because their State stocks being thrown into the market brought their value, and the bill-holder was more than secure. So the principle has been established, that interest-paying stocks offer a sound and legitimate basis of banking. Hence, if we are to have banking at all, let us avail ourselves of that safe principle which has been established in the experience of all the States, and not take the venture of confining ourselves to our own stocks. For I believe the latter principle to be radically wrong, and I would remove all temptation. I would never have one single bond of the State of Kansas issued for any purpose whatever.

We have been cited to various ruinous results of banking, but have they not grown out of inefficiency in the systems—as in the cases of the general free banking system of Indiana, and the safety-fund system of New York? There is a safe and legitimate system of banking, and an unsafe and fictitious system. The safe system is based on interest-paying stocks; the fictitious system is based on personal security, or something of the kind—a principle in banking and currency which I hope never to see saddled upon the State of Kansas.

I like that in the report which provides for the submission of the banking law to the people. It is therefore useless to bind up the Legislature with rigid provisions, since the people are to pass upon the whole question.

Mr. GRAHAM demanded the ayes and nays on the question of his amendment, and the vote being ordered and taken, resulted, yeas 29, nays 20 as follows:

YEAS—Messrs. Burnett, Brown, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Forman, Graham, Greer, Griffith, Hipple, Hanway, Hoffman, Ingalls, Lillie, Lamb, Middleton, May, Moore, McCullough, Porter, Ritchie, Stokes, Thacher, Townsend, Wrigley, T. S. Wright, Williams.

NAYS—Messrs. Arthur, Blunt, Barton, Foster, Hubbard, Hutchinson, Houston, Kingman, McDowell, McCune, McClelland, McCullough, Preston, Palmer, Parks, Ross, Signor, Slough, Stinson, Stiarwalt, Simpson.

So the amendment was allowed.

Mr. J. BLOOD. I propose to amend further by striking out all except the first and two last sections, and insert these words: "The Legislature shall have power to pass a general banking law, with such restrictions as they may see proper for the security of the bill-holder."

The PRESIDENT ruled this amendment to be out of order.

The second section, as amended, was then adopted.

The third section was read and adopted.

The fourth section having been read by the Secretary,

Mr. KINGMAN moved to strike out the words "of the United States."

Mr. GRAHAM. Mr. President, I am opposed to that. I am no lawyer, but I suppose it will be held in any commercial court, and I think it is legal, that money is the gold and silver coin of this country, France, England, Germany, &c., and this is not all legal currency of the United States. It strikes me that we ought to confine these banks, and compel them to deal with the people as you and I are compelled to deal with each other—[*36] give them no power to tyrannize over a man *when he goes to their counter and asks for nothing but his just dues.

Mr. KINGMAN's amendment was rejected, and so the section was adopted.

Sections 5 and 6 were adopted without a division.

Section 7 coming up, Mr. Slough demanded the yeas and nays, which resulted—yeas 36, nays 13—as follows:

YEAS—Messrs. Arthur, Blunt, Brown, Barton, Burris, Dutton, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Hanway, Houston, Ingalls, Kingman, Lamb, Middleton, May, Moore, McDowell, McCune, McCullough, Preston, Palmer, Parks, Porter, Ritchie, Ross, Signor, Slough, Stinson, Stiarwalt, Simpson, Wrigley, T. S. Wright.

NAYS—Messrs. Burnett, J. Blood, N. C. Blood, Crocker, Foster, Hutchinson, Hoffman, Lillie, McClelland, Stokes, Thacher, Townsend, Williams.

So the 7th section was adopted.

The Convention took a recess till 3 o'clock P. M.

AFTERNOON SESSION.

TUESDAY, July 12.

Mr. STINSON (the rule being suspended for the purpose) submitted a resolution which was adopted, inviting the Hon. Marcus J. Parrott to a seat within the bar of the Convention.

And accordingly, the Sergeant-at-Arms was directed to execute this order.

BANKING.

The Convention resumed the consideration of this chapter of the report of the committee on Corporations and Banking, as amended in Committee of the Whole, and the 8th and 9th sections thereof were read through by the Secretary and adopted without a division.

Mr. SLOUGH moved that this report, as amended, be referred to the Committee on Arrangement and Phraseology, and printed.

Mr. J. BLOOD. Mr. President, I submit the following amendment to the report:

"Strike out sections 2, 3, 4, 5, 6, and insert the following:

" 'The Legislature shall have power to pass a general banking law, with such restrictions as they may deem expedient and proper for the security of the bill holder.' "

I make this motion, sir, for a special reason—principally, because I

think we are legislating more than is proper in a Constitution. Then the provision proposed to be stricken out, I regard as improper and injurious. If we establish a system of banking, it should be a secure one. I object also to discrimination against our own banks, and in favor of the banks of other States, in the provision excluding bills less than $5 of our own banks, whilst all foreign small bills are allowed to circulate. I also object to making the banks in the different parts of the State tributary to any place where capital may be concentrated, requiring banks in remote parts of the State to submit to an unequal provision. And I think, if the Legislature is required to submit the banking law to the people, they will be likely to throw around it sufficient restrictions. I am anxious to have the sincerity of gentlemen who profess to be in favor of a sound banking system started —particularly those who are anxious to protect the interests of the interior counties, and I give notice that when the time comes to vote on my amendment, I shall demand the yeas and nays.

The PRESIDENT. There is a motion to commit the report, and unless the gentleman from Leavenworth withdraw until his motion is disposed of, the chair cannot entertain the motion of the gentleman from Douglas.

Mr. SLOUGH. If it is the wish of the Convention to open the question again, I will withdraw. I will do it anyhow, as a matter of courtesy.

The PRESIDENT then entertained Mr. Blood's amendment.

Mr. HOUSTON. Mr. President, there is a grave question for considera- [*37] tion at this *moment. After we have gone through and attempted to guard this matter as well as we can, here comes a motion to lay the whole thing open again to the previous results connected with the proceedings of a legislative body. Every man must know that it must be almost to give up the system, to make it an uncertainty. It seems to me that our constituents will not be satisfied with such a conclusion. They will say that Legislatures are sometimes corrupt—that they have been so—that partisan and selfish influences may work in the Legislature, and great mischief result. It does seem to me, however, that we have got up a party for reform in this territory, that men cannot work round without trouble. But they cannot work round us so easily as might the Legislature.

Mr. J. BLOOD. There is a provision now in the report, for the submission of any banking act to the people, which, I think, a sufficient guard against hasty or corrupt Legislation.

Mr. HOUSTON. I would say, with all defiance [deference] to the gentleman, that I have learned that the great mass of men in the rural districts, and even in the towns, give to the banking laws of the country but little consideration. Let fifteen or twenty thousand dollars be put into the hands of suitable agents, to be used in the canvass when a banking law is to be passed and submitted, and an influence will be brought to bear that will hurry through the bill, and then let speakers go through the rural districts, and measures might be ratified by the people, that would prove exceedingly injurious. The people would vote without consideration. And I say, whilst we are here for the purpose of making a Constitution, let us place all the guards we can around our banking system. I am Democrat enough to go in for the submission of laws to the people, but still I want all the restrictions we can get around the system. We have already given up much that we wanted in the way of restrictions. We wanted the bank notes restricted to ten dollars, but $5 being the best we could get, we accepted that, and I would rather allow them to issue five cent bills than to give up the safe-guards we have now secured. We have given up the

confining of a majority of the stockholders to the county. We have given up the exclusion of the stocks of other States. And now, it seems to me, that if bankers desire to do a legitimate business they can do so under this management. I do not want to allow them to go to the Legislature.

The yeas and nays being demanded ordered and taken on the adoption of the amendment, the vote stood—yeas 16, nays 31—as follows:

YEAS—Messrs. Arthur, Burnett, J. Blood, N. C. Blood, Hutchinson, Hoffman, Kingman, Lillie, McCullough, Preston, Ritchie, Ross, Stinson, Simpson, Thacher, Townsend—16.

NAYS—Messrs. Blunt, Brown, Barton, Burris, Crocker, Dutton, Foster, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Hanway, Houston, Ingalls, Lamb, Middleton, May, Moore, McDowell, McCune, McClelland, Palmer, Signor, Slough, Stiarwalt, Wrigley, T. S. Wright, Williams—31.

So the amendment was rejected.

On motion by Mr. SLOUGH, the report, as amended, was referred to the Committee on Arrangement and Phraseology, and ordered to be printed.

LEGISLATIVE DEPARTMENT.

On motion by Mr. THACHER, the general order of reports from Standing Committees was taken up.

Mr. THACHER, from the committee on the Legislative Department, submitted the following report:

"SECTION 1. The Legislative power of this State shall be vested in a Senate and Assembly.

SEC. 2. The first Assembly under this Constitution shall consist of seventy-five members who shall be chosen for one year. The first Senate under this Constitution shall consist of twenty-five members who shall be [*38] chosen for two years. After the first election under this Consti*tution the number of Senators and members of the Assembly shall be regulated by law, and in all apportionments there shall be established single Senatorial and Assembly Districts, such districts shall be bounded by county, town or ward lines, consist of contiguous territory, and be in as compact form as possible. Until the Legislature makes a new apportionment and changes the number of the members of the Assembly and Senators, the number and apportionment shall be according to the provisions of this section.

SEC. 3. The members of the Legislature shall receive as compensation for their services the sum of three dollars for each day's actual service at any regular or special session, and fifteen cents for each mile traveled by the usual route in going to and returning from the place of meeting, but such compensation shall not in the aggregate exceed the sum of two hundred and forty dollars for each member as per diem, allowance for the first session held under this Constitution, nor more than $150, as per diem allowance for each session thereafter, nor more than $90 as per diem allowance for any special session.

SEC. 4. No person shall be eligible to the office of member of the Assembly or Senate who is not at the time of his election a qualified voter of and a resident in the district for which he is elected.

SEC. 5. No person being a member of Congress or holding any office under the United States shall be voted for or hold a seat in the Legislature. If any person after his election as a member of the Legislature be elected to Congress or appointed or elected to any office under the United States, his acceptance thereof shall vacate his seat.

SEC. 6. No person hereafter convicted of an embezzlement or misuse of the public funds shall hold office in this State, nor shall any person holding public money for disbursement or otherwise, have a seat in the Legislature until he shall have satisfactorily accounted for and paid such money into the Treasury.

SEC. 7. All officers of this State before entering upon the duties of their respective offices shall take and subscribe an oath or affirmation to support the Constitution of the United States, the Constitution of this State, and faithfully to discharge the duties of their respective offices to the best of their ability.

SEC. 8. A majority of each House shall constitute a quorum to do business. Each House shall determine the rules of its own proceedings, except as limited by this Constitution, and shall be the judge of the elections, returns and qualifications of its own members. The Senate shall choose a temporary President when the Lieut. Governor shall not attend as President or shall act as Governor.

SEC. 9. All vacancies which may occur in either House shall be filled for the unexpired term by election, as shall be prescribed by law.

SEC. 10. Each house shall keep and publish a journal of its proceedings. The yeas and nays shall be taken and entered immediately upon the journal upon the final passage of every bill or joint resolution, and may be demanded and shall be entered upon the journal on any question at the request of three members. Neither house, without the consent of the other, shall adjourn for more than two days, Sundays excepted.

SEC. 11. Any member of either house shall have the right to protest against any act or resolution thereof, and such protest and the reason thereof [therefor] shall without delay or alteration be entered on the journal.

SEC. 12. Bills may originate in either house, and all bills passed by one house may be amended or rejected by the other.

SEC. 13. A majority of all members elected to each house, voting in the affirmative, shall be necessary to pass any bill or joint resolution. All bills and joint resolutions so passed shall be signed by the presiding officers of the Senate and Assembly, and be presented to the Governor, [*39] *within two days after being signed, for his approval.

SEC. 14. Every bill passed by the Senate and the Assembly shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, who shall enter the objections at large upon its journal and proceed to reconsider the bill. If after such reconsideration two thirds of the members elected shall agree to pass the bill it shall be sent with the objections thereto to the other house, by which it shall likewise be reconsidered; and, if approved by two thirds of all the members elected it shall become a law. But in all cases the votes of both houses shall be determined by yeas and nays, and entered upon the journal of each house respectively. If any bill shall not be returned within three days, Sunday excepted, after it shall have been presented to the Governor, the same shall be a law in like manner as if he had signed it, unless the Legislature by its adjournment prevent its return, in which case it shall not be a law.

SEC. 15. Every bill shall be read on three successive days in each house, unless in case of emergency. Two thirds of the house where such bill is pending may, if deemed expedient, suspend the rules, but the reading of a bill by sections on its final passage shall in no case be dispensed with.

SEC. 16. No bill shall contain more than one subject, which shall be

clearly expressed in its title, and no law shall be revived or amended, unless the new act contain the entire act revived, or the section or sections amended, and the sections so amended shall be repealed.

SEC. 17. In all cases where a general law can be made applicable, no special law shall be enacted.

SEC. 18. The Legislature shall never authorize any lottery, nor grant any divorce, nor confer banking privileges upon any corporation, except as is provided in this Constitution, nor pass any law, directly or indirectly, authorizing the suspension of specie payment, by any power, corporation or association issuing bank notes of any description.

SEC. 19. The Legislature shall have the power to prescribe the time when its acts shall be in force and to publish the same. It shall have the power to provide for election or appointment of all officers, and the filling of all vacancies, not otherwise provided by this Constitution.

SEC. 20. The enacting clause of all bills shall be "The people of the State of Kansas represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

SEC. 21. The Legislature may confer upon tribunals transacting the county business of the several counties, such powers of local legislation and administration as it shall deem expedient.

SEC. 22. For any speech or debate in either house the members shall not be questioned elsewhere. No member of the Legislature shall be subject to arrest, except for a felony or breach of the peace, in going to or returning from the place of meeting, or during the continuance of the session, neither shall he be subject to the service of any civil process during the session, nor for fifteen days previous to its commencement.

SEC. 23. The first Legislature under this Constitution shall provide by law that all stationery required for the use of the State and all printing required by it to be done for its use or the use of the State, shall be let by contract to the lowest bidder with good security; but the Legislature may establish the maximum price. No member of the Legislature or State officer shall be interested, directly or indirectly, in any such contract.

SEC. 24. All bills for the raising of revenue shall originate in the Assembly, subject to amendment and rejection by the Senate as in other cases.

SEC. 25. All sessions of the Legislature shall be held at the State [*40] Capitol and all regular ses*sions shall commence on the first Tuesday of January, of each year.

SEC. 26. The Legislature shall provide for taking an enumeration of the inhabitants of this State at least once in five years.—The first enumeration shall be taken in A. D. 1861.

SEC. 27. The Legislature shall have the sole power of impeachment. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall take an oath to do justice according to the law and the evidence. No person shall be convicted without the concurrence of two thirds of all the Senators elected.

SEC. 28. The Governor and all other officers of this State shall be subject to impeachment for any misdemeanor in office, but judgment in such cases shall not be extended further than to removal from office and disqualification to hold any office of profit or honor or trust under this State, and the party whether acquitted or convicted shall be liable to indictment, trial, judgment and punishment according to law."

On motion by Mr. SLOUGH, the reading was dispensed with, and it was ordered to be referred to the committee of the whole. And on his further

motion, the convention resolved itself into committee of the whole—Mr. Stiarwalt in the chair—and took up the consideration of this report.

On the motion of Mr. KINGMAN, it was agreed to consider the report by sections.

Section 1 having been read by the Secretary—

Mr. LILLIE moved to strike out the word "Assembly," and insert "House of Representatives" in its place: which was agreed to.

Section 2 having been read by the Secretary—

Mr. BLUNT moved, that wherever the word "Assembly" occurs in the report, it be supplied by "House of Representatives."

Mr. THACHER. Probably a majority of the Committee and the Convention are accustomed to the use of "House of Representatives," yet I am confident that "Assembly" is a shorter and better term and therefore the committee employed it. I have no serious objection to the other wording; but in making the change gentlemen will find themselves frequently running into the same difficulty which the gentleman from Anderson begins to see.

Mr. BLUNT's amendment was agreed to.

Mr. SLOUGH. Mr. Chairman, I move to strike out the word "seventy-five" in the first line, and insert the word "fifty" for the number of members of the House of Representatives.

Mr. THACHER. Mr. Chairman, that is a direct blow at the smaller counties. The object in making the House of Representatives so large is, to get a fair representation for every county in the State. The committee desired to give every county at least one representative.

Mr. SLOUGH. Mr. Chairman, I am informed that the committee on apportionment have not yet had a meeting. My reason for making the motion is this: one of the heaviest expenses of a State government is the legislature; and if you make that body numerous, it will be a heavy expense. Fifty members of the House of Representatives for Kansas will answer every purpose for years to come. This, together with the number who ought to constitute the Senate, would make 75 members. As far as the representation of each county by its own representative is concerned, it would be desirable if it did not involve expense. But it seems to me that there would be less difficulty in one man representing a plurality of counties, than in cutting the larger counties up into separate representative districts and making antagonistic interests in the same county. We should come as nearly as possible to the object for which [*41] we are called here—to make a simple, economical system *of government for the people of a new State, until a new Constitution may be formed to suit their maturer wants.

Mr. GRIFFITH. Mr. Chairman, why not reduce the number to twenty-five? I presume that number would be as efficient as fifty for mere legislative action. Those who favor seventy-five, do so because they think the interests of the State may be more efficiently represented by a larger number. I think, sir, that one of the first things to be secured is a full representation of the people of the different parts of the Territory. I would rather go above 75, than bring the number below that. Any diminution of that number would be calculated to throw the strength of legislation into the hands of the larger counties. I know from conversation with several members of the committee, that it was desired and intended that every organized county should have one representative in the first legislature. If we reduce this number every organized county

cannot have a representative, and there cannot be a thorough representation of all the counties. Every man has peculiar interests in the county in which he lives, and every man representing two or three counties will inevitably look more after the interests of the county in which he resides. I believe the interests of the State will be better subserved by allowing the number to stand, for it is of the utmost importance that every district should be fully represented.

Mr. BLUNT. Mr. Chairman, I am opposed to diminishing the number reported. It should be remembered that we are about to include within our borders a territory larger than that of the State of Ohio, or of Iowa, or of New York. And we should have in view the prospective wants of the people of the State in determining this matter of the number of representatives. If we reduce the number to fifty, and take as a basis of representation any data that may be in possession of the Convention, it will be impossible to do justice to some of the remote counties. There are counties in the Southern and Northwestern portions of the Territory, where they have not at any election yet held, polled a vote, which, if taken as a basis of apportionment or representation, would entitle them to that representation which in justice should be accorded. I know in the Southern portion of the Territory a number of counties in which the people are daily increasing—perhaps ten-fold more rapidly than in the older settled counties. There [these], of course, all have their local interests to look after. Perhaps, in the first legislature, questions of county boundaries and county seats will be brought up; and it is eminently proper that each of these counties should have a member on the floor to look after their [its] interests. And therefore I think it is important that we should fix the number as reported by the committee, in order that we may give to each of these organized counties—notwithstanding they [it] may not be entitled to it upon any vote that has been cast by them [it] heretofore, yet in view of the more rapid settlement going on in these counties, and in consideration of the population these counties will contain by the time this Constitution shall go into effect—at least one representative to look after their [its] local interests. And although it may seem to be throwing considerable expense upon the people, yet I think it will be a matter of sufficient importance—especially to those who will be most affected by our action—to justify any additional expense that might be incurred even by increasing the number reported. I would rather increase the number to 90, than diminish it to 50, and I believe the interests of the State would be better subserved.

Mr. BARTON. Mr. Chairman, I move to amend the amendment, by inserting "sixty," instead of "fifty."

Mr. PRESTON. Unless we have nearly the number brought forward in the report, we cannot follow out the system of a full representation. Where two or three counties are represented by one man in the Legislature, it must be admitted that the interests of those counties cannot be equally [*42] represented. That this *might be illustrated in this body, I have no doubt. Gentlemen sometimes might go to the Legislature representing counties they have never visited. I am decidedly opposed to any reduction of the number in the report.

Mr. HUTCHINSON. I simply want to direct attention to the fact, that we have at present organized some forty counties; and, with our probable boundaries, we shall have half as many more in a few years. And it is contemplated by the committee that each county shall have one representative. The House of Representatives, being the popular branch, is

a body coming every year directly from the people. And in order that every constituent may be represented—every man may have an equal representation in the General Assembly—I suppose it is quite important, and even indispensable, that at least the number mentioned in the report should be retained. And if there should be any curtailment of expense in this regard, I think the place to apply the rule would be the other House, instead of the popular branch. I would sooner see the Senate go down to fifteen or nine, than that the popular branch should be reduced to fifty. We ought to be cautious how we deprive any people of their rights in this respect. The right of representation must be preserved. We ought to look forward to the day when the State shall stretch out its arms and become populous with men of enterprise and wealth. We should not allow ourselves to judge by the indexes of Kansas to-day. We are a body of 52 members, and is there any portion of Kansas whose representation is too small here? Look forward through a period of ten years, when our population and their wants will be quadrupled, and it seems to me it would appear preposterous to think of confining the House of Representatives to 50 members. The cutting down should come in at the other House if anywhere.

Mr. Ross. If those districts which have been hitherto disfranchised should happen to get a little more than their share, it would not be amiss, perhaps.

Mr. PARKS. On examining the Constitutions of various States, I have observed that the number of Representatives and Senators at the commencement of the State government, have been about the same. For example, Indiana, 10 Senators, 25 Representatives; Missouri, 15 Senators, 30 Representatives; Ohio, 15 Senators, 30 Representatives. I think the larger the number the more satisfactory we shall be able to make the apportionment.

Mr. FORMAN. Was this matter ever canvassed in the Committee on Apportionment?

Mr. THACHER. It was.

Mr. MCDOWELL. Mr. Chairman, I second the motion to reduce the number to 50, and I do not know but 50 would be too large. It seems to me that the basis should be the people of the Territory; and, as Col. Slough has well observed, one great object we should have in view, should be the organization of a simple and economical form of government. The gentleman, my colleague who has just addressed the committee (Mr. Parks) has shown that the number of representatives in many of the new States that have been admitted into the Union, was much less than the number (fifty) which we propose. Our Territorial population, at this time, I suppose to be somewhere in the neighborhood of 75,000—it may reach 100,000 people of this Territory; and we ought to establish a rule which shall serve as a joint basis of representation for this people. It is not material that every particular county should be represented, if it have not a population entitling it to a representation. It is no new thing in the history of matters of this kind, to apportion so that three or four counties may have but a single representative—such counties of similar character and resources, where the population is sparce, one man can represent the whole about as well as though a representative were taken for each county. Then if we can agree on the basis of population, we can easily fix the number. It has been said that the committee on apportionment have had certain meetings, and agreed to a certain propo-
[*43] sition, and that this *proposition has induced the legislative com-

mittee to make the report they have. I am a member of the committee on apportionment. That committee did meet yesterday, and adjourned till to-morrow. If that committee have done anything of this kind, it was not done yesterday, nor at any regular meeting. But that is immaterial. The Convention will regulate all; and I do hope gentlemen will not saddle upon the State an unnecessary expense. Gentlemen talk of liberality. Why not allow every legal voter to be, *ex officio*, a member of the lower house? The great State of Ohio, 10 years ago—she then had a population of over a million—did not have a larger number of representatives than this committee on the legislative department propose for a State of 70,000 inhabitants. Gentlemen will find, if we adopt a large number, that future legislatures are not going to cut it down. Too many men want to go to the Legislature, and instead of diminishing they will increase the number. Then I think the number ought to be reduced, with power to increase as population may demand.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I have the honor on this floor to represent, in part, a constituency composed of four counties; and the only thing in the shape of instructions from them which I have heard of, is to the effect, that it is the desire of all to be separated in legislative matters, so that each county may have its own representation. Obeying, then, the wishes of my constituents, I shall be constrained to vote against any diminution of the number reported.

Mr. BURNETT. Mr. Chairman, I have the honor to represent three counties; and I believe the people of those counties demand of us, that in the future House of Representatives of Kansas there shall be such an apportionment as shall give to each county a separate and distinct representation. Gentlemen talk of economy in this apportionment. Is it not better that the people be fully represented, than that the legislation should be done by a few men, as has been the case heretofore in Kansas? I propose that we now inaugurate a new state of things, and that for the future in our legislation, we shall have a full representation of the people. Gentlemen speak of 75 as a large number. Why, sir, in the House of Representatives of the State of Maine, there are three or four hundred members; in New Hampshire two or three hundred; in Massachusetts, five or six hundred; and shall we not in Kansas be represented by seventy-five? I contend that every county has a right to a separate representation on the floor of the House of Representatives, and we cannot extend that right to all the counties with a less number than seventy-five.

Mr. STINSON. Will seventy-five give each county one?

Mr. PRESIDENT WINCHELL. I do not know, Mr. Chairman. I have paid no attention to the statistics. I simply act according to the known view of my constituents. This is the only thing in the shape of instructions that I have heard from them. I am therefore constrained to vote against any reduction which will diminish the chances for a separate representation.

Mr. Barton's amendment, proposing "60," was rejected; and the question recurring on Mr. Slough's [amendment], proposing "50," it was also rejected.

Mr. BURRIS. Mr. Chairman, I propose to strike out "one year" and insert "two years" in the clause referring to the term for which members of the Legislature shall be elected. I do this with the view of taking a position in favor of biennial sessions of the Legislature.

Mr. BLUNT. Mr. Chairman, I am surprised at the economy manifested by gentlemen. I am certainly opposed to biennial sessions of the Legis-

lature—especially in a new country like this. And it has been found in the older States not to work well. For instance, in the States of Indiana and Ohio, where they adopted biennial sessions some eight or nine years ago, they are agitating the question of a return to annual sessions. And if, in the old settled States, where all the machinery of legislation is complete, [*44] and *the wants of the people may be more readily and certainly known—if biennial sessions do not work well there in Ohio, they would certainly work disastrously in this Territory. I have found out, sir, that in taking the initiatory steps of a State organization there is much to be done; and gentlemen will find that—if they prescribe biennial sessions, and limit the time of the sessions—much of the work necessary in the machinery of a State organization, such as the preparation of a code of laws, and legislating for the constantly increasing wants of the people—will not be done for want of sufficient time. I hope that, before passing upon this matter, gentlemen will give to it the reflection, its importance demands; and I think there is a good guide to us in the fact, that the older States, which have tried biennial sessions, are now agitating the question of returning again to annual sessions.

Mr. BURRIS. Mr. Chairman, I made this motion with a view to economy. I voted against reducing the representation to sixty, because I think there should be at least seventy-five, in order that the representation may be full. I make this motion to extend the time between the regular sessions of the legislature from one to two years, because I think once in two years, is often enough for the Legislature to meet. The gentleman alluded to the working of biennial sessions in the State of Ohio. I remember very distinctly the annual sessions in Kentucky under the old Constitution; and I remember, that some twelve years ago, they provided in their new Constitution, that the Legislature should meet only once in two years; and from all the information I have the people there are satisfied with that provision; and I know that two years ago in the State of Iowa the people in their new Constitution continued the biennial sessions of their old Constitution. I am in favor of biennial sessions, with power in the governor to call extra sessions.

Mr. SLOUGH. Mr. Chairman, I have had occasion to see the practical working of biennial sessions. It is utterly impossible for the legislative business of a great State to be done by means of biennial sessions. And in most of the western States where they have adopted biennial sessions, they have been compelled to return to the annual sessions, or virtually to adopt them by adjourning over from winter to winter, and then these adjourned sessions have been protracted to three or four months; and I think in any new State with biennial sessions, that course would have to be pursued on account of the legislation absolutely demanded by the people. For that reason I am opposed to the amendment. I think it better to elect each year. The additional expense of election would not be much; and the advantage to be derived, would be in the fact that the members of the larger branch of the legislature would come fresh from the people each year. If we were to adopt this amendment, I believe the State would be absolutely compelled to adopt a different course in two years.

The amendment was rejected.

Mr. PORTER moved to amend the section so as to make the Senators elective annually, which was rejected.

Mr. BARTON proposed to strike out "twenty-five" and insert "twenty" for the number of Senators.

Mr. THACHER. The apportionment stands in the usual ratio of three to one; and if we are to have a complete representation it strikes me that twenty-five is not too many Senators.

Mr. BARTON. I have a precedent for the ratio I propose in the State of Illinois.

The amendment was rejected.

Mr. FORMAN proposed to insert after the word "law" in the fourth line these words: "And shall never exceed 100 Representatives and 33 Senators."

This amendment was adopted.

On motion by Mr. LILLIE, it was agreed that whenever the word "Assembly" occurs in the report, it shall be supplied by "House of Representatives."

[*45] *Mr. STINSON moved to strike out of the second section all after the words "single Senatorial and Assembly districts" inclusive.

Mr. THACHER proposed to strike out all after the words "regulated by law."

Mr. GRAHAM. I move to insert in the proper place: "and that each organized county, at the first election under this Constitution, and in all subsequent legislatures, shall be entitled to at least one representative."

Mr. SLOUGH. That would be placing too much power in the hands of the legislature. The history of Kansas shows that we have had more than one corrupt legislature. With this provision, all a corrupt legislature would have to do in order to disfranchise a particular county, would be to multiply the number of counties. It is placing power in the hands of the Legislature that may be employed to the disparagement and injury of the more populous counties.

Mr. GRAHAM. Mr. Chairman, I am opposed to granting such power to the legislature. This is a provision that each county shall have at least one representative in the first legislature after the adoption of this Constitution. It is not my own idea. There is just such a provision in the Constitution of Pennsylvania.

Mr. THACHER. The same provision is in the Constitution of the State of New York. It is eminently right and proper that each organized county should have at least one representative in the lower branch of the legislative department.

Mr. MCCLELLAND. I think the committee on apportionment, when they shall come to this, will make a fair apportionment, and settle this matter satisfactorily to the Convention.

Mr. THACHER. I would offer this as a substitute: "That in all apportionments hereafter made, each organized county shall be entitled to one representative."

Mr. GRAHAM. I am opposed to that. I wish to provide merely for the present—that the present existing counties shall each be entitled to at least one representative in the House of Representatives.

Mr. ROSS. There are thirty-five organized counties in the Territory. I move to further amend, by adding words to this effect: "And no new county shall be erected that has not a sufficient population to entitle it to one representative under the ratio adopted." That is also in the New York Constitution.

Mr. THACHER, I accept that.

On the motion of Mr. McDowell, the committee now rest, and the Chairman (under instructions) reported progress, and asked and obtained leave to sit again.

NORTHERN BOUNDARY.

On motion of Mr. HUTCHINSON, the Convention now took up the general orders of the day—the first being the presentation of petitions and memorials.

Mr. THACHER presented a memorial from the delegation to this Convention elected by the people of that portion of the Territory of Nebraska lying south of the Nebraska river, and moved that it be referred to the committee on Preamble and Bill of Rights.

Mr. HOUSTON proposed the committee on Federal Relations, but—

On the motion of Mr. FORMAN, it was referred to a special committee of thirteen—one from each council district.

NEGROES AND MULATTOES.

Mr. MCDOWELL offered the following:

Resolved, That there shall be appointed by the President of this Convention a special committee of seven on Negroes and Mulattoes which shall be instructed to inquire into the expediency of reporting, as follows:

"1st. No Negro or Mulatto shall come into, or settle in the State, after the adoption of this Constitution.

2d. All contracts made with any negro or mulatto, coming into the State contrary to the provision of the foregoing section shall be void; and all persons, who shall employ such negro or mulatto, or otherwise en- [*46] courage him to remain *in the State shall be fined in any sum not less than twenty nor more than five hundred dollars.

3rd. All fines which may be collected for a violation of the provisions of this article, or of any law which may hereafter be passed under it, shall be used for the colonization of such negroes and mulattoes and their descendants, as may be in the State at the adoption of this Constitution and may be willing to emigrate.

4th. The Legislature shall pass laws to carry out the provisions of this article."

Mr. PRESTON moved to lay the resolutions on the table; and the yeas and nays being demanded and ordered thereon, the vote stood—yeas 26, nays 21—as follows:

YEAS—Messrs. Arthur, Burnett, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Porter, Ritchie, Ross, Stokes, Simpson, Thacher, Townsend, T. S. Wright, Williams—26.

NAYS—Messrs. Blunt, Brown, Barton, Porter, Forman, Greer, Hipple, Hubbard, May, Moore, McDowell, McCune, McClelland, Parks, Signor, Slough, Stinson, Stiarwalt—21.

The following explanation was admitted to the journal under the rule:

We vote to lay on the table, but are willing and ready to meet that question in a single proposition to be submitted to a direct vote of the people.

W. R. GRIFFITH, A. CROCKER,
J. C. BURNETT, J. J. INGALLS,
G. H. LILLIE.

So the resolutions were laid on the table.

Mr. HOUSTON submitted the following, which was adopted:

"*Resolved*, That the Secretary be required to copy and deliver on the adjournment of each session, all resolutions, letters or petitions that are referred to Standing Committees to the Chairman of such committees as they are respectively referred to."

The Convention then adjourned till to-morrow morning at 9 o'clock.

WEDNESDAY, July 13.

The Convention met at 9 o'clock A. M.

Prayer by the Chaplain.

CORRECTION OF THE JOURNAL.

The journal of yesterday was read.

Mr. STOKES said he was present yesterday, and voted in the *negative* on the amendment to the chapter on banking, offered by Mr. J. Blood, and the journal was corrected accordingly.

REVISED EDITION OF THE AUTHORIZED REPORTS.

Mr. Ross gave notice that if any corrections were necessary in the authorized reports, as printed in yesterday's *Commercial Gazette*, they should be sent in to the printer as early as 10 o'clock, in order to [secure] the correction of the type for the revised edition.

SPECIAL COMMITTEE ON NORTHERN BOUNDARY.

The PRESIDENT announced the following special committee, to which, under the order moved by Mr. Forman, was referred the memorial of the Nebraska delegation presented yesterday by Mr. Thacher, viz:

Messrs. Forman, Graham, Foster, McClelland, Middleton, Hoffman, Greer, Simpson, Thacher, Blunt, Dutton, Barton and Lillie.

MANAGEMENT OF COMMON SCHOOLS.

Mr. THACHER. Mr. President, the following resolution has been handed to me, and concurring fully in the spirit of it, I offer it for adoption.

"*Resolved*, That the Committee on the Legislative Department, be instructed to report a clause securing to the women of the State equal rights in all questions involving the organization and conduct of Common Schools."

The resolution was referred to the Committee on the Legislative Department.

GUNN'S MAP.

Mr. BARTON submitted the following:

"*Resolved*, That the Sergeant-at-Arms be instructed to procure one copy of Gunn's new map of Kansas, for the use of each member and officer of this Convention."

[*47] Mr. TOWNSEND. Is the expense of these *maps to come out of members individually, or out of the Territory?

Mr. BARTON. I suppose, if the order is made, the expense would be expected to come out of the appropriation for the expenses of the Convention.

Mr. THACHER. That appropriation and as much more will be exhausted for the expenses of this body; and I am not sure that we would be justifiable in voting ourselves this map. The map is a very excellent

one—the best ever published of Kansas—and every member ought to have one. But to purchase it would be an outlay not incidental to the expenses of this Convention, and the resolution strikes me as of doubtful propriety.

On motion by Mr. J. BLOOD, the resolution was laid on the table.

LEGISLATIVE DEPARTMENT.

On motion by Mr. SLOUGH, the Convention resolved again into Committee of the Whole—Mr. Hipple in the Chair—and resumed the consideration of the report of the committee on the Legislative Department—the third section of said report, as printed in yesterday's proceedings, being under consideration.

Mr. INGALLS. Mr. Chairman, I move that this third section be stricken from the bill. It seems to me that the matter of this section is peculiarly within the province of the Legislature, and I am opposed to having this Constitution encumbered with so much miscellaneous and superfluous matter.

Mr. THACHER. It is customary, Mr. Chairman, in all Constitutions to fix the per diem and mileage of members of the Legislature. It is too great a temptation for members to be called upon to fix their own compensation.

Mr. ROSS. Would not the schedule be a more appropriate place for this matter?

Mr. THACHER. I think not. I find the Constitutions of New York and Wisconsin, and Ohio, I think, have a section in this place fixing their compensation, &c.

The motion was lost—affirmative 16, negative 24.

Mr. HOUSTON moved to strike out "$3.00" per day and insert "$2.50."

Mr. GRAHAM moved to insert $5.00 per day.

Mr. GRIFFITH moved to lay these amendments on the table.

The motion was agreed to.

Mr. WRIGLEY offered the following:

"I move to strike out all after the word 'meeting' in line 11, and insert the following after the word 'session' in line 10:"

"For the term of sixty days, and $1 for each day thereafter."

Mr. LAMB moved to further amend by inserting "fifty days" in place of "sixty."

Mr. THACHER. Mr. Chairman, the first Legislature that shall assemble will have nearly double duty to perform. Therefore in any rate of compensation and time fixed, we ought, in the case of the first session to make reasonable exceptions. The committee thought 80 days would not be too much time. But that subsequent sessions ought not to hold more than 50 days—50 days for the regular session, and 30 days for any special session. Special sessions are usually called for the consideration of specific subjects, and 30 days was thought sufficient.

Mr. LAMB's amendment and Mr. WRIGLEY's amendment were successively rejected.

Mr. HOUSTON offered the following by way of substitute:

"The members of the Legislature shall receive for the first session the sum of $3 per day, provided that they shall not receive any greater sum for such services."

On motion by Mr. HUBBARD, it was laid on the table.

Mr. SLOUGH proposed to amend the section by inserting "in specie," after the word "dollars," whenever it occurs in the section.

Mr. HOUSTON. Mr. Chairman, it seems that in this proposition pre- [*48] sented here, there *is an unnecessary amount of legislation. We are endangering the Constitution and piling up objections to its adoption. I could acquiesce in a clause fixing the compensation of members for the first session, if that be thought best; but I see no propriety in restricting or limiting further. We do not know what our circumstances may be in the future. I think we are putting in a pretty round sum here. [Reads the section]. Now multiply these 100 members by 240, and it will come to a round sum. I tell you, gentlemen, that in the rural districts this thing will not do—and if I were going to oppose this Constitution I would hang my hat on this peg, and it would get votes. It seems to me that we ought to look at the effect of such things. Retrenchment and Reform is the word—and if it be disregarded here, it will be an objection to the constitution and to the party that makes the constitution. The general government has seen proper to sell the public lands at this season of the scarcity of money, and hundreds and thousands of our people living poorly in hovels and tents, struggling for the means to pay for their homes, and it will be so, with them for years to come. For this reason it seems to me that we ought to put these expenses at the lowest possible sum. I know they will require retrenchment in this particular, and in every other. Before passing upon this, I hope the committee will look at it all around. In the State of Iowa, they only get $1.50 per day, and it is proposed to pay here $3 per day. Why, sir, cannot we work as cheap as they? Aye, sir, and if there were any important work to be consummated, let us give our services to the State, if necessary. I understand, sir, that under this estimate, just the pay of members of the Legislature would amount to over $10,000. It seems to me we ought to curtail as much as we possibly can.

Mr. MCDOWELL. I think this whole matter were better to be left to the Legislature, and I therefore move that section three be laid on the table.

The PRESIDENT. In the opinion of the Chair, it would not be in order to lay part of the report on the table.

Mr. PRESIDENT WINCHELL. The Chair will take notice, that the entire section is proposed to be laid on the table, and such a motion is always in order.

The CHAIRMAN then entertained the motion, and it was referred—affirmative 18, negative 25.

The question recurring on Mr. Slough's amendment, it was also rejected.

Mr. STINSON offered the following substitute for the third section:

"SECTION 3. The members of the Legislature shall receive such compensation as may hereafter be provided by law."

Mr. FORMAN moved to amend by adding, "not to exceed $3 per day, nor more than 15 cents per mile"; but

On the motion of Mr. BURRIS, all these amendments were laid on the table.

Mr. MCCLELLAND offered the following as a substitute:

"The members and officers of the General Assembly shall receive a fixed compensation to be prescribed by law, and no other allowance or

perquisite either in payment of postage or otherwise, and no change in their compensation shall take effect during their term of office."

The substitute was rejected, and then the section was passed.

Section four having been [was] read by the Secretary.

Mr. SLOUGH moved the following amendments:

Insert "county or" before "district" in 15th line.

Strike out "Assembly" and insert "House of Representatives" in 14th line.

The amendments were adopted, and so the section passed.

[*49] *Section five having been read—

Mr. HOFFMAN moved to insert "except postmaster" in the 16th line after the words "United States" which was adopted.

Mr. HOUSTON moved to strike out the words "shall be voted for or hold," and Mr. Lillie proposed to insert the words "shall be eligible to," which were adopted.

And then the section, as amended, was adopted.

Section six being read—

Mr. STINSON moved to strike out these words after "funds," viz: "shall hold office in this State, nor shall any person holding public money for disbursement."

Mr. PRESIDENT WINCHELL. It seems to me, sir, that no person, for merely having exercised an office or trust, should be embarrassed by such a clause, and therefore I am in favor of the amendment.

Mr. THACHER: The only question here is, whether, to save our reputation, we shall not make a sweep that will clear out all our offices, members of the Convention, as well. It is a question that will be supported by all parties—upon which they will blend and run into each other.

Mr. GREER. The word "convicted" is a legal word, and implies criminality. If we are going to make it criminal, and punishable by indictment or presentment for a man to merely misuse the public funds, then the word "convicted" would have its legal signification here and be applicable in this section. But I apprehend that it would be rather stringent for a mere misuse of the public funds, to subject a man to indictment in a criminal prosecution. I am not prepared to take that ground, nor am I prepared to render a man constitutionally ineligible to office for crime before conviction.

Mr. THACHER. This section is almost identical with one in the Ohio Constitution (which he read). It seems to me the object is to preserve inviolate and intact the public justice, to remove temptation and to throw a safe-guard around the public offices; and I think any man who has been even suspected of abuse of the public funds ought not to be eligible to office. I think he has forfeited that right—especially when he has been convicted. Cæsar's wife ought to be above suspicion. I think, sir, from the experience we have had of the acts of various officers of the United States government in this Territory, we are called upon to guard as well as we may the right to serve the State in any public capacity.

Mr. GREER. Mr. Chairman, I would not go so far as to render a man ineligible to office, or make it a criminal offence, or a misdemeanor for a man to be suspected by some political partisan of having made use of the public funds in a manner not entirely warranted by law. I think there are other rights belonging to the citizen than that which pertains to the

preservation of the public funds. I am not for attacking the character of a man quite so sharply, and I hope the Convention will not adopt into the Constitution a provision so stringent as that in this section, and indicated by the gentleman from Douglas.

The amendment of Mr. STINSON was agreed to, and then the section as thus amended was adopted.

Section seven having been read—

Mr. BROWN offered the following by way of substitute:

"All officers of this State before entering upon the duties of their respective offices shall take and subscribe an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Kansas, and faithfully to discharge the duties of their respective offices to the best of their ability."

The substitute was rejected.

Mr. SLOUGH proposed to strike out from the section the words "and subscribe."

It was agreed to.

Mr. PARKS. It seems to me that this section is entirely out of order [*50] under the legislative *head. It more properly belongs to the miscellaneous department.

Mr. SLOUGH. If this is not the proper place for it, the committee on arrangement can distribute all these different sections to their proper places.

Mr. PARKS. I think not. I move to lay the section on the table.

The motion was lost, and then the section was passed.

Sec. 8 having been read—

Mr. FORMAN offered the following:

Strike out of second line the words "Except as limited by this constitution."

The amendment was lost.

Mr. STINSON moved to strike out all after the word "members."

The amendment was rejected, and then the section was adopted.

Sections 9, 10, 11, were successively read and adopted without a division.

Section 12 having been read—

Mr. PRESIDENT WINCHELL submitted the following by way of substitute:

"SEC. 12. All bills shall originate in the House of Representatives, and be subject to amendment or rejection by the Senate."

Mr. WINCHELL. Mr. Chairman, I desire to render just a word of reason for offering this for the consideration of the committee. I have witnessed in the passage of bills through the Legislature so much confusion, resulting from the introduction of bills of like character into both Houses, and have been so often at a loss for the reason of it, that it seems to me a matter of some importance to guard against it. Had it not been for this practice in legislation, we would have been freed from a good many difficulties. Almost the sole cause of clerical errors has been found to arise from the fact that the same bill has been simultaneously introduced in both Houses, and in its passage between them the confusion arises. There is a very wise provision in nearly all our Constitutions in this country, that all bills for revenue shall originate in the popular branch. That principle is a sound one, and the same reasoning upon which it stands can

be applied to all other bills. If the popular branch is not competent to originate bills that should meet every want of the people, certainly it seems to me the Senate cannot be. In this way, also, it seems to me that we would secure to the Senate a higher character. They would act as a board of censors, criticizing and amending the acts of the lower House—their consent being essential to the passage of all laws. Were a provision of this sort adopted, I would be in favor of limiting the power of the Governor in regard to the veto. I would give him the power of vetoing all bills, and then I would give to the Legislature the power of passing any law over the veto by a bare majority.

Mr. THACHER. I would suggest for the consideration of members, that there is not a State Constitution, and I think there is not a legislative body in any State in this Union, that has such a restriction except as to bills for revenue. Our most thriving States have no such provision. The conflict and confusion to which the gentleman refers, is more justly attributable to the fact that every bill has its friends and enemies in both Houses—and this fact explains how the origination of the same bill in both Houses at the same time facilitates business. The effect of the amendment would be to compel the Senate to wait on the House of Representatives for work. Under the common rule any bill could become a law in half the time that would be required under this. The only effect of such a provision would be to procrastinate the session.

Mr. HUTCHINSON. It seems to me a singular idea that this substitute would lengthen the session. Those who have the slightest acquaintance with our legislative bodies must be well aware that our business has been delayed long enough to be done twice over from the origination of the [*51] same bill in both Houses. A bill for the *encouragement of education, or for the construction of roads and highways, for instance, has been introduced into both branches. Then comes all the expense of writing and printing, engrossing, enrolling, consultations in committees, &c., requiring much time. And many charges that have been brought against members of the Legislature have originated from this cause more than any other. The charges in connection with the slavery bill are referable perhaps entirely to this cause, which gave the bill into the hands of the revolutionary party and nearly defeated its passage. I contend, sir, that there can be no more salutary provision for the Legislative department than this. If bills originate in both branches, why have two bodies? Why not send them all into the same chamber, and let one man preside? From the very fact that it is expected of the Senate that it shall exercise a sort of supervisory power. The members of that body are elected for two years, and that shows that they are a higher department. I believe time and money both would be saved by the adoption of the substitute.

Mr. BLUNT. Innovation is certainly no argument why this amendment should not prevail. I believe it would obviate many difficulties and give dignity to legislation, and I am in favor of discreet reforms. I shall vote for the amendment.

Mr. PRESIDENT WINCHELL. It seems to me very strange, that my friend from Douglas (Mr. Thacher) who is a radical man, should plead "no precedent" against us. I object to that argument coming in. For it certainly can make no difference to him or me whether any other Constitution contains this provision, provided it is a wholesome one. And with regard to the Senate being delayed by the action of the House, do we not know that in all legislative bodies it is customary for each House to wait for the other. It is the business of neither House to provide busi-

ness for the other; and if the House of Representatives understood that it was its place to prepare business in all cases, it would go to work and do it.

Mr. GRIFFITH. I would suggest the propriety of adding the words "or rejection."

Mr. GREER. I am opposed to the substitute for the reasons suggested by the gentleman from Douglas (Mr. Thacher) which I think are very cogent—that the Senate might not be delayed by a feeling of hostility on the part of the House of Representatives. A factious House of Representatives might delay and defeat the legitimate business of legislation. This objection carries great force, and ought to be well considered by the committee before they consent to adopt this substitute. Unless there are good and cogent reasons why we should depart from the practice of all the other States, we should, to some extent, be governed and guided by their experience.

Mr. THACHER. I do hold, most strenuously, that where there is no precedent, it is unwise for us to experiment—it is wrong. Another evil effect of the substitute would be to turn all the twenty-five members of the Senate into lobby members of the House, for the introduction and support of their peculiar measures, whereas, if they had the right to introduce bills into their own chamber they would keep their seats. I have never seen the least collision between the two Houses in the Legislature of the State of New York. It is generally customary for the friends of a bill to agree where it shall be originated. I think that the legislation and experience of the past ought to convince us, that all bills should originate in either House, save bills of revenue, for which there is provision made.

Mr. GRAHAM. I am opposed to the amendment of the gentleman from Osage. I know of no precedent for it, but that found in the second Territorial guard for the government of the Northwestern Territory. Upon [*52] the organization of the Northwestern Territory, *the Governor thought the judges were not merely executors of the law, but law-makers. We had expected and asked of Congress a Territorial Legislature, but they sent us a board of supervisors, merely to examine and approve of their proceedings. Now, since we have had experience, for the first and last time, I hope, of the advantages of a board of supervisors, it seems to me such a thing never ought to be mooted again. I am satisfied with the experience of the past, and think we ought to adopt the time-honored rule of each House having the power to originate bills—except bills for revenue, to be originated only in the lower house.

Mr. RITCHIE. I believe in the doctrine of reform, and I can see in this amendment a reform that is safe. I understand, that if we give to the lower branch of the Legislature the power of originating bills, the other branch may act legitimately in revising, amending and correcting the work thus commenced. The people, choosing their representatives annually, are expected to present by them all propositions for new legislative work; and in order that they may not be pressed forward with too great haste, that body which has the most experience in legislation would be expected to come in with equal powers in maturing them into law, and perfect their work. If the Senate is to have the same power with the House in originating bills, I would be in favor of but one body.

Mr. HOUSTON. This government of ours is peculiarly and emphatically a government of checks and balances. Our people are heterogeneous for whom legislation is required: and it seems to me that confusion in the matter of legislation results generally from members not being well posted.

Indeed, I know this has been the case. But this amendment would save time, because it would obviate much of that pride of opinion which arises from jealousy between the two Houses. Let the lower house only introduce bills, and this feeling could not be so rife. It is expected that members of the House of Representatives will come up with the wants of the people, and it is proper and safe that their work should be submitted to the graver body. I think, also, that by this amendment we will obviate another difficulty. We will gain time. We shall have less outside pressure; and it would prevent so much hasty legislation for succeeding legislatures to wipe out.

Mr. PRESTON. The House of Representatives certainly is that branch of the Legislature representing the immediate wishes of the people. The Senate is supposed to be the conservative branch, and they should act as a check upon the House, and should revise their labors. It seems to me that the substitute is right—that the Senate is the proper place to revise the work of the House of Representatives.

The amendment was adopted—affirmative 28, negative 13—and then the resolution as amended was adopted.

Section 13 was read and adopted.

Section 14 having been read—

Mr. PRESIDENT WINCHELL moved to strike out after the word "House," in 41st line, these words: "in which it shall have originated" and insert, "of Representatives."

Mr. MCDOWELL moved to amend by striking out the whole section. He thought the Governor ought not to have the veto power.

Mr. STINSON. I object to the radical proposition of my radical friend from Leavenworth. I think the veto is one of the most wholesome restrictions upon the legislative power, and essential to the maintenance of the due balance that should be preserved between the different departments of government.

Mr. THACHER. Should not the same reasoning which carried the former, carry this proposition also?

[*53] *Mr. PRESIDENT WINCHELL. I protest against this line of argument—that because a certain proposition has been decided to be good and meritorious, we must therefore adopt everything else presented and looking in the same direction. I am not decided as to whether the motion of the gentleman from Leavenworth (Mr. McDowell) may not be a wholesome one; and if I was to object to it, it would not be for the reasoning set forth by the other gentleman from Leavenworth (Mr. Stinson).

Mr. MCDOWELL. I have a word to say with reference to the motion I have made. I take it that, as we have adopted the principle that the Legislative body shall be the law-making power, that we had better devolve the responsibility for the character of the laws upon that department. I do not think it belongs in any proper sense to the official character of the Governor to act as a law-maker for the State. I think the vesting him with such extraordinary power and authority is an anomaly in republican forms of government. If the people are misrepresented—if the Legislation that happens to pass through the Legislative department is impolitic and wrong, throw the responsibility where it belongs—upon the parties making the laws. But the gentleman says, this is a new thing—that it is a progressive idea—that it finds no precedent in other constitutions—and that because some gentlemen here are incorporating certain progressive ideas, therefore this should be incorporated. One of these

statements is certainly not correct. For if the gentleman will recollect, a great many state Constitutions do not give the Governor this power.

Mr. SLOUGH. I think if we can conform to the Constitution of the United States, we cannot find a better model. I believe all will accord to that instrument the high character I give to it. That instrument vests in the Federal Executive the same power with which we propose to invest the Governor of Kansas. It has been found to work well there, and I see no reason why it will not work well with us. If we take this power from the hands of the Governor, we leave him the Executive office only, and his chief prerogative will be to pardon criminals. We might almost as well dispense with the Governor entirely, if this power be taken away from him. In addition to this—and taking a broader view—it is not in accordance with the principle of checks and balances. We cannot throw too many safeguards around the rights and interests of the people.

Mr. RITCHIE. I am opposed to giving too much power into the hands of one individual. I am not aware that, because a man has been promoted to the chair of Governor, that on that account he possesses really any better judgment than when he stood among the people. Instead of the people being protected by this power, it seems to me the very opposite is true. The popular will must be better reflected by the representatives, who are more recently from the people, and better know their wants. I do not wish to separate the Governor from the Legislative power, but his being placed in the position of Governor, gives him a sufficient amount of power and influence in that body through his official communications. Taking such considerations, I am in favor of striking out the section.

Mr. THACHER. I cordially concur in the remarks made by the gentleman from Leavenworth (Mr. Slough) that it is unwise to depart from the old landmarks. I cannot see that the arguments employed by the other gentleman from Leavenworth (Mr. McDowell) are any more cogent than those relied upon to support the amendment to the former section. I think the doctrine of the veto check is a safe and sound one.

Mr. GREER. One of the distinctive features which makes the difference between the governments of the American States, and the European [*54] governments is a distribution of powers; and I *am in favor of keeping up and preserving this distribution of the powers of government between the Legislative, Executive and Judicial departments. I am therefore opposed to the veto power of the Governor, unless it be so qualified that the two houses by a majority may pass the bill notwithstanding the veto. The Governor is but a man, and cannot be supposed to know as much of the wants of the people as the representatives, who have come up fresh from a common interest amongst them. I concur also in the reasoning, that the representatives, coming immediately from the people, and better acquainted with their wants, should originate all legislative propositions, and that the Senate should act merely as a body of revision upon the acts of the House of Representatives. If we make the Senate such a check upon the house, it strikes me that it will be sufficient. In all my observation of the legislation of this country, I have never seen any great benefits growing out of the veto power as it has been exercised either in our national or State governments. On the contrary, I have frequently seen contests between the Executive and Legislative departments on this account, which have not been at all creditable in history. I think we should dispense with the veto.

Mr. GRIFFITH. I submit whether the exercise of the veto power has ever been salutary? Has not offered a check upon much hasty and in-

considerate legislation? If it were in the province of the Governor to defeat a law altogether, then this power ought not to be placed in his hands. But the veto only refers the question directly to the people, and so entering into the next election canvass the majority governs in the case at last. I think the operation of the veto has been a salutary check upon our legislation both in the National and State governments. If gentlemen will look into our national history, they will see that the first bill vetoed by the first President of the United States, was a most salutary exercise of that power, and I can see no evil growing out of its judicious exercise.

Mr. ROSS. The idea inducing me to oppose the amendment is, that the veto is a conservative power in the hands of the Executive. It is his duty to prevent the enactment of deleterious laws. I think none will dispute this, that the effects and consequences of a bad law are far worse than having no law on any given question. The sin of commission is greater than the sin of omission.

Mr. BURNETT. I would refer the gentlemen to a recent case of the use of the veto in the State of Illinois. There it was that the representatives of a minority of the people obtained control of the Legislative department, and those minority representatives wishing to continue in power, introduced measures to that end, which the Governor vetoed, and so preserved the rights and carried out the wishes and feelings of a majority of the people. Should not an instance of this kind teach us the importance of the veto power?

Mr. HOUSTON. This question merits consideration. It involves measures of very great moment. If I knew how the Convention would stand in relation to another question, I could tell better how I would vote on this. I think the different departments of the government should be distinct from each other. I do not think the Executive ought to have any part in Legislation. My position is, that it is possible to maintain proper checks and balances in the State government without employing the Executive veto—that it would be better for the Governor to be the Executive merely. But there is another consideration. If we are going to adopt this two-thirds rule, it would place in the hands of one man the power to defeat the clearly expressed will of the people. On the other hand, if we admit of no veto at all, we dispense with a wholesome check, as it might some- [*55] times result, upon the Legislature. It *seems to me, if we could agree upon a proposition, that a majority of three-fifths should be competent to overcome the veto; that it would be better to retain this power; so I am not willing altogether to forego the advantage of this check. At the same time I do not want to put into the hands of one man all the power and responsibility involved in the original section. I would use the veto as a check—never to defeat the people's will.

Mr. BLUNT. The new Constitution of the State of Ohio, which we have adopted as the basis of our action, contains no veto clause, and I believe that the history of the last ten years of that State, has proved the wisdom of that. I believe no injury has worked to the people in consequence of the Governor not having the veto. I have drawn up an amendment by which I propose to meet this case. I would strike out from the word "bill" in line 42, to the word "law" in line 44, and insert in lieu thereof the following words: "If, after such consideration, a majority of the members of the House shall agree to pass the bill, it shall be sent to the Senate, in which body it shall be reconsidered, and if approved by a majority,

then it shall become a law." That is, the Governor shall have a veto to the extent that shall enable him to remonstrate against hasty legislation. The Governor should not be clothed with legislative powers. He is purely a ministerial officer. But when you require two-thirds to overcome his veto, you clothe him with a dangerous power. I believe he should have the power to restrain hasty legislation; that is, that he should be authorized to point out his objections to the House—giving members an opportunity to reconsider the matter, and to avail themselves of the reasons of the Governor for refusing to sign the bill, and if they have acted hastily, to apply the corrections. We find a precedent for this in the very Constitution we have adopted for our basis, and the same clause stands in several of the later made Constitutions. But these considerations are not material. This is an age of reform; and notwithstanding it may be an innovation upon the customs of legislation, that can be no argument why we should not adopt it.

Mr. PRESTON. I believe the re-charter of the United States Bank was once defeated by the veto. The will of Congress was frustrated, but the veto was sustained by the people. I give this as one instance in which, in my opinion, the veto worked well.

Mr. FOSTER. I am opposed to striking out, and to the amendment. It has been urged here that the veto power in the Governor is calculated to defeat the will of the majority. But, gentlemen seem to forget that the Governor is equally a representative of the people. He is placed in his position by the popular vote, and so far from defeating the will of the majority, I insist that he is more the representative of the popular majority than possibly the Legislature themselves might be. For instance: there might be a question of the location of the seat of government, before a Legislature, whose members are interested in a certain locality, say in sufficient strength to be able to carry it by a bare majority, and so the law passes, evidently detrimental to the interests of the whole State. And suppose the Governor to veto such a law: in such a case he sits as the representative of the interests of the people. I insist upon it, that clothed with the veto, the Governor, under some circumstances, is rather the representative of the people of the State than the Legislature themselves.

Mr. McDowell's motion to strike out was rejected, and the question recurring on the substitute of Mr. President Winchell, it was agreed to.

Mr. MCCLELLAND submitted the following amendment:

"Strike out the words 'two-thirds' in line 42, and line 44 of section 14, [*56] and insert in lieu *thereof in each place the words 'a majority.'"

Mr. BLUNT proposed to strike out the words "other House" and insert "Senate" which was lost, and then

Mr. McClelland's amendment was also rejected.

Mr. HOUSTON proposed to strike out the word "two-thirds" whenever it occurs and insert "three-fifths."

Mr. STINSON proposed "five-ninths."

Mr. MAY moved to lay these amendments on the table, and the motion was agreed to.

Mr. WINCHELL moved the adoption of (the) 14th section, as amended, and it was adopted accordingly.

Mr. WRIGLEY moved a reconsideration of Sec. 13, which motion the Chairman declared out of order.

Sec. 15 having been read,

Mr. GREER offered the following amendment:

I move to insert after the word "emergency" the following,

"Which emergency shall be stated in the title of the bill."

The amendment was rejected.

Mr. Ross offered the following amendment:

"In line 50 add 'No bill shall be passed until the same shall have been printed and placed in the hands of the members of the two Houses.'"

Mr. THACHER. There are a great many cases in which that would occasion delay. I do not see the necessity of a provision of that kind.

Mr. Ross. I should think that any person familiar with the legislation in this Territory for the last two years, would see the necessity for this provision. It would prevent confusion, fraud, and mixing bills between the two Houses.

Mr. MAY. I think section 13, as amended, will obviate the difficulty the gentleman speaks of—confining the origin of bills to the House of Representatives.

Mr. Ross' amendment was rejected, and then the section was passed.

Section 16 having been read—

Mr. THACHER moved to amend by inserting in 52d line the words "or sections" after "section": which was adopted: and so the section was adopted.

Section 17 having been read—

Dr. BLUNT moved that it be stricken out.

Mr. WRIGLEY offered the following substitute:

"All laws of a general nature shall have a uniform operation throughout the State, and in all cases where a general law can be made applicable, no special law shall be enacted."

Mr. THACHER. That is for the purpose of preventing the lumbering up of the Statutes with local laws.

The substitute was adopted, and then the section as amended was adopted.

Section 18 having been read—

Mr. FOSTER moved to strike out in line 55 the words: "nor grant any divorce."

Mr. FOSTER. As I am one of the few single men on this floor, I can meet this motion disinterestedly. But I can conceive of no situation in which a man can be placed more wretched than that of being tied to a common scold; and of no more worse position for a woman than that of being tied to a disagreeable man.

Mr. WINCHELL. Would the gentleman prevent the Legislature from giving to the Court this exercise of a power which he says is so much needed?

Mr. MAY. In the State of Missouri the Legislature have no power to grant divorces, but they have conferred that power on the Courts.

The amendment was rejected, and then the section passed without amendment.

Section 19 having been read—

Mr. FOSTER offered the following:

I move to amend by striking out line 58 as far as and including the word "same," and insert as follows:

[*57] The Legislature shall have power to pub*lish all laws passed, and no law of a general nature shall be in force until after the same shall be published.

Which was adopted; and then the section as amended was adopted.

Section 20 having been read—

Mr. MCDOWELL submitted the following:

Strike out the enacting clause in line 61 and insert "Be it enacted by the Legislative Assembly of the State of Kansas."

There was no second to this proposition.

Mr. STINSON moved to insert "Commonwealth" in place of "State"; which was lost.

Mr. SLOUGH proposed to amend by striking out the words "Legislative Assembly," and inserting "Legislature"; which was adopted; and then the section as amended was adopted.

Section 21 having been read—

Mr. GRAHAM moved to strike it out.

Mr. THACHER. I would suggest to the gentleman this consideration: Each county has a certain amount of local legislation, such as the laying out of highways, &c., which, if it have not the power to transact, must come before the Legislature. The supervisors need authority in such cases: and this is to authorize the Legislature to authorize the County Board to do county business, and so save the enactment of many local laws.

Mr. BLUNT. I think this comes more properly under the head of County and Township Organization; and it ought to be stricken out.

Mr. HOUSTON offered the following as a substitute:

"It shall be the duty of the Legislature to pass stringent laws to guard the purity of the ballot box."

Mr. BLUNT. I do not see what connection that has with the matter under consideration.

The CHAIRMAN. The chair was about to rule it out of order.

Mr. HOUSTON. The proper place for this is in the consideration of the powers of the Legislature; and it does seem to me that a matter of such importance ought to be placed in the organic law. If I understand our position, Mr. Chairman, we are drifting toward results and consequences which no man can estimate. The times are out of joint. Our public men are corrupt; the ballot box is not inviolable, and character is insecure. We have started out wrong and the first step if we would start right, is to guard well the elective franchise, by imposing the severest penalties against the infringement of this God-given right.

The resolution was rejected.

On motion by Mr. SLOUGH, the Committee now rose, and the Chairman (under instructions) reported progress, and asked and obtained leave to sit again.

The Convention then took a recess till 3 o'clock, P. M.

WEDNESDAY, July 13.

AFTERNOON SESSION.

Mr. J. BLOOD. Mr. President, I am about to ask leave to submit an order to dispense with the report of these proceedings in Committee of the Whole. I think, if the reports in full are continued it will be productive of needless expense. I will offer a resolution that hereafter the proceedings in Committee of the Whole shall not be reported by the official reporter.

Mr. KINGMAN. I suggest that it had perhaps better be withdrawn till we shall get the Legislative Report through the committee.

Mr. STINSON. Better to let the report of the proceedings on the Legislative report go out in full. I propose an amendment to that effect.

Mr. J. BLOOD. I will withdraw the resolution for the present.

LEGISLATIVE DEPARTMENT.

On motion by Mr. SLOUGH, the Convention now resolved into Com-
[*58] mittee of the Whole—*Mr. Hipple in the Chair—and resumed the consideration of the report of the committee on the Legislative department—the question pending being on the adoption of the 22d section.

Mr. BROWN offered the following as a substitute:

"For any speech or debate, in either house the members shall not be questioned elsewhere, nor shall any word or words spoken in debate in either house of the Legislature be the foundation of any action, complaint or prosecution. No member of the Legislature shall be subject to arrest, except for a felony or breach of the peace, in going to or returning from the place of meeting, or during the continuance of the session, nor for fifteen days previous to its commencement."

The substitute was rejected, and the section passed without amendment.

Section 23 was read.

Mr. STINSON. Mr. Chairman, I move that the section be stricken out. It is open to the objection of interfering with legislation.

Mr. THACHER. That section is in the Wisconsin Constitution, and the committee were unanimous in recommending it.

It is not in the Ohio Constitution, but it is a check upon fraud.

Mr. STINSON. Why not insert "fire wood," after "stationery?"

Mr. THACHER. Because fire wood is so small an item. The stationery of this convention will be more than all the other incidental expenses put together. Hence it was thought best to put out by contract.

Mr. Ross. The printing is to be let to the lowest bidder. He referred to a case where a public printer charged 14 cents per thousand and token, and got the work done at 25 cents. Gentlemen could see where the gouging would be.

Mr. STINSON's motion to strike out section 23 was adopted.

Mr. THACHER offered the following to come in, in the place of section 23.

"SECTION 23. The Legislature, in providing for the formation and regulation of common schools, shall make no distinction between the rights and privileges of males and females."

Mr. HUTCHINSON moved to insert after "common schools," the words "or State University."

Mr. BURRIS. I am not sure that I understand the extent to which

the amendment goes—whether it is that females are to be entitled to hold office, receive appointments and disburse money—or whether it is merely that there should be no distinction as to privilege in the schools between male and female children.

Mr. THACHER. I suppose the former assumption is correct.

Mr. BURRIS. If that be the object and extent of the resolution, I must interpose my dissent; but if it merely places all children on the same footing, I have no objection. I cannot see any greater necessity for inviting females to the right of voting and holding office in connection with the State University, than there is in inviting them into any other official capacity. I believe I could rather vote to strike out the word "male" from the article on the Elective Franchise.

Mr. BLUNT proposed to refer the substitute to Mrs. Nichols.

A Voice. I propose that Dr. Blunt be added to the committee. [Laughter].

Mr. MAY made an ineffectual motion to lay the substitute and amendment on the table.

Mr. THACHER. I am not strenuous about the matter of the control of the State University, but in the common schools, what would they be without the female influence, as it radiates from the fireside? I think, sir, that their influence should be so directed as to be felt there, and that there their power appropriately resides. The committee considered such a provision just and humane. A similar provision is in the Constitution of the State of Kentucky, and I am sure that the representatives of the people of Kansas are not less gallant, and care not less for the [*59] *rights and interests of females in the rising generation, than the men of Kentucky.

I hold, sir, that our mothers and sisters have as much interest and responsibility with respect to the common schools, as our fathers and brothers. I hope this provision will be adopted, and that female influence in our schools may be felt in all its power. It is, I confess, one step in the direction of female suffrage—but it cannot do any harm, whilst it will afford an example of its working.

Mr. HUTCHINSON. I think the rule will work as well in the higher department as in the common schools, for this reason. There is little distinction made between the sexes as to their rights in the common schools of the adjacent States, and there is no difference in their progress in learning. But so soon as you rise above the common schools this distinction is felt. The hand of the law must be thrust in as soon as they travel above a certain grade. I feel that my clause is of equal importance with the provision embraced in the original section. It is well known that some of the most flourishing colleges in the Union have adopted this system. There is none more justly prosperous than Antioch College, in the State of Ohio, where both sexes are admitted upon an equality.

Mr. BLUNT. If the gentleman's resolution were a little modified, I should have no objection to it. As far as it respects the placing of the sexes in the common schools on an equality—giving them equal privileges—I am not opposed to that. But if it is proposed to make no distinction between the sexes in the matter of the election of officers, directors, &c., and providing such rules and regulations as may be necessary for the management and direction of the common schools and the State University, I am opposed to that. When the time shall come—if it should ever come—in the progress of events—that the great majority of the women of this

country shall ask to be put upon an equality with the men, I do not know that I shall have any objection to offer. But, in my judgment, the time has not come when any considerable portion of women make this application; and it will be time enough to accord this right when they ask for it. The gentleman is mistaken as to the adoption of this rule in Ohio. Females there have no direction in school matters.

Mr. HUTCHINSON. Being informed that my principle is well provided for by the Committee on Education, I withdraw the amendment.

Mr. GRIFFITH. I conceive that if we were to confer on woman her rights in the management of our college and common school systems, that we should find much more efficiency and energy in the great work of educating the rising generation. It is conceded that our sisters and wives take more interest in the cause of education than ourselves. Let woman have an equal voice in the schools—in determining how many months they shall be kept, who shall be officers, and what shall be the amount of tax for the support of schools, and we shall inaugurate a more efficient school system than has ever yet blessed this most favored land. I consider that the matter of conferring upon females the elective franchise is of minor importance compared with this.

Mr. THACHER'S section was adopted—affirmative 22, negative 19: and so sec. 23 was passed.

Sec. 24 was read.

Mr. Slough offered the following, by way of substitute:

"SEC. 24. No money shall be drawn from the Treasury, except in pursuance of a specific appropriation made by law, and no appropriation shall be for a longer term than one year."

The substitute was adopted and the section was passed.

Sec. 25 was read.

Mr. BLUNT proposed the following amendment: Strike out "First Tuesday in January," and insert "first Monday in December."

[*60] Mr. SLOUGH. In most of the States, former*ly, it has been the custom for their Legislatures to meet in the beginning of the winter. But in view of the fact that the holidays occur in the month of December, when members generally go home to their families, and much time in legislation was lost by being thus broken in upon, they have changed the time to January. And I object to the amendment because it is better for business, as well as the interests of the people, that the session should continue without interruption.

Mr. THACHER. I should prefer the 2d Tuesday in January.

Mr. GRIFFITH. I suggest this difficulty. I presume that there will come into the Legislature a large representation from the farmers, and if the time for opening the session be set late in January, the session will be extended so far into the spring that it will not do at all for them. The same objection would apply to the month of December. The farmers could not leave before the first of January, and they cannot stay longer than March. Then for a sixty days' session we ought to begin early in January.

Mr. THACHER. The way we have it fixed, the session is not to continue more than fifty days.

Mr. BLUNT. I withdraw my amendment.

Mr. Thacher's amendment was rejected.

Mr. THACHER moved to insert "annually" after the word "commence,"

and strike out "of each year"; which was adopted. And the section as amended was adopted.

Section 26 was read.

Mr. Graham moved to amend by inserting "1865" in place of "1861," and inserting "ten years" in place of "five years."

Mr. Burris moved to insert 1863 in place of 1865.

Mr. GRAHAM. In 1860 the census will be taken by the United States, and again in 1870, and so on. And if we take our census in 1865, 1875, &c., the results will be of some use.

Mr. BURRIS preferred taking the State census twice between the times of taking the United States census—say in 1863 and 1868.

Mr. J. BLOOD. I am opposed to the amendment to the amendment, and in favor of fixing the time at 1865, and striking out five years wherever it occurs in the original section and inserting ten years.

Mr. GRAHAM. I accept that.

Mr. THACHER. Our State is filling up fast, and our relative population changes much more than the population of the older States. If all the old States want a census once in ten years, as the gentleman says, once in five years would not be too much for us. But I think 1863 is a period that will satisfy all; and then let it be regulated by the Legislature afterwards.

Mr. PRESIDENT WINCHELL offered the following, by way of substitute:

SEC. 26. An enumeration of the inhabitants of the State shall be taken in 1861, and in 1865, and every ten years thereafter.

Mr. J. BLOOD. I can see no use in putting the State to the expense of taking the census in 1861—the next year after the national census.

The substitute was rejected.

Mr. Burris' amendment was also rejected.

Mr. Graham's amendment, as modified, was adopted, and so the section passed.

Section 27 was read.

Mr. WINCHELL moved to strike out "Legislature," and insert "House of Representatives," and strike out the words "the sole power of impeachment," and insert the words "to impeach."

Mr. STINSON. What is the object of that? As I understand the word impeachment, it is presentation and trial. I would inquire whether presentation and trial should be had before the House of Representatives?

Mr. WINCHELL. A different conclusion is reached among the lawyers in regard to the word impeachment. If the gentleman has given the legal meaning of this word, I should desire a different word here.

[*61] *Mr. THACHER. This provision is copied from the New York Constitution.

Mr. STINSON. Mr. Webster says of the word: "In the United States it is the right of the House of Representatives to impeach, and of the Senate to try and determine the impeachment."

Mr. SLOUGH. The gentlemen might amend by striking out "of impeachment," and inserting "to impeach," so that it shall read, "the House shall have the sole power to impeach."

Mr. THACHER read the section in the New York Constitution.

Mr. STINSON. Every attempt to alter the phraseology makes confusion. The word means not only the presentation, but the right to try, the trial

itself. It consists not merely in the presentation. If you stop short of the trial then there is no impeachment. Then I contend that you must go beyond the House of Representatives, or the other matter of the section will be rendered nugatory. It seems to me that the sense of the section cannot be rendered as clear by any other phraseology, as by that which it now is.

Mr. SLOUGH. The amendment which I have proposed would render the sense very clear. The word "impeach" is "to accuse." Then the one House will impeach and the other will hear the trial.

Mr. WINCHELL. For all I can see, this amendment is right. Either it is correct, or the Constitution of the State of New York is wrong. That the construction of the gentleman from Leavenworth (Mr. Slough) is proper I have no doubt. I have accepted the amendment he suggested.

Mr. THACHER. Under the similar provision in the New York Constitution, there was the trial of Canal Commissioner Mather: he was impeached by the Assembly and tried by the Senate.

Mr. Winchell's amendment was adopted, and, as thus amended, the section was passed.

Section 28 was read.

Mr. SLOUGH proposed the correction of a clerical error, inserting the word "under" instead of the word "of." Without this correction, the section would not include judicial officers who are not elected by the State at large. It was for the purpose of covering the district judges that he moved to strike out the word "of" and insert the word "under."

Mr. KINGMAN. It is "under" in my copy. But if it is under, of course there must be something to cover it. (Laughter).

Mr. BURRIS. Would it not be better to read "under this Constitution?" I propose that modification.

The amendment was agreed to, and so the section was passed.

Mr. MCCLELLAND submitted the following as an additional section to the report.

"SEC. 29. All laws creating new counties, changing county lines, or removing county seats shall, before taking effect, be submitted to the electors of the several counties to be affected thereby, at the next general election after the passage thereof, and be adopted by a majority of all the electors voting."

Mr. SIMPSON. That is incorporated in the report of the Committee on County and Township Organization.

Mr. MCCLELLAND. I have noticed such a provision in this part of the Constitution of other States.

Mr. RITCHIE. We have a similar provision. I state this as Chairman of the Committee on County and Township Organization, and move to lay the section on the table.

The motion was agreed to.

The Committee then rose, reported the bill to the Convention, with the foregoing amendments, and recommended their adoption.

On the motion of Mr. THACHER, the Convention proceeded to take up the consideration of this report of the Committee of the Whole: [*62] *and it was ordered to be considered, section by section.

Section 1, as amended, was read and adopted.

Section 2 being read—

Mr. McDOWELL moved to strike out "75" and insert "50" for the number of members of the House of Representatives and called for the yeas and nays on the question.

The yeas and nays being seconded, ordered and taken, resulted—yeas 14, nays 38—as follows:

YEAS—Messrs. Arthur, Brown, Barton, Foster, Greer, Hipple, Hubbard, May, Moore, McDowell, McCune, Slough, Stinson, Wrigley—14.

NAYS—Messrs. Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Forman, Graham, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McClelland, McCullough, Preston, Palmer, Perry, Parks, Porter, Ritchie, Ross, Signor, Stiarwalt, Stokes, Simpson, Thacher, Townsend, J. Wright, T. S. Wright, Williams, Mr. President—38.

So the motion was rejected, and the section passed as amended in committee of the whole.

Section 3 being read—

Mr. PORTER proposed to strike out all after the word "meeting," which was rejected.

The section was then passed.

Section 4 was read and passed.

Section 5 being read—

Mr. PRESIDENT WINCHELL (Mr. Thacher, the President *pro tempore* in the chair). These words "except postmasters," which were inserted in committee of the whole, should not be here. A postmaster is not an officer.

On motion by Mr. GREER, these words were stricken out: and so the section passed.

Section 6 was read and passed.

Section 7 being read—

Mr. LILLIE made an ineffectual motion to restore the word "subscribe," which was stricken out in committee of the whole: and then the section passed.

Section 8 being read—

Mr. McDOWELL. I propose to amend by striking out all of this section after the word "members." I make that motion in view of a report that will be before the Convention in a few hours, which does away with the office of Lieutenant Governor.

The motion was rejected.

Mr. BLUNT proposed to insert, after the word "member," these words: "shall punish for contempt or disorderly behavior, and may, with the concurrence of two-thirds, expel a member, but no member shall be expelled a second time for the same offense." (No second.)

Mr. RITCHIE. I propose, after the word "President," to insert the words "of their number."

The amendment was agreed to, and so the section passed.

Sections 9, 10, 11, were read and passed.

Section 12 being read—

Mr. PARKS moved as a substitute the following—(the same as in the original section):

"Bills may originate in either House, and all bills passed by one House may be amended or rejected by the other."

Mr. STINSON moved to lay the substitute on the table: and the yeas and nays being demanded and taken the vote stood—yeas 37, nays 12—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Brown, Barton, J. Blood, N. C. Blood, Crocker, Dutton, Foster, Griffith, Hipple, Hutchinson, Hanway, Hoffman, Houston, Lillie, Lamb, Middleton, May, McDowell, McCune, McClelland, McCullough, Preston, Porter, Ritchie, Ross, Signor, Slough, Stinson, Stokes, Simpson, Townsend, T. S. Wright, Williams, Mr. President—37.

NAYS—Messrs. Burris, Forman, Graham, Greer, Hubbard, Ingalls, Kingman, Moore, Palmer, Parks, Thacher, J. Wright, Wrigley—13.

So the substitute was laid on the table, and the section passed.

[*63] *Section 13 being read—

Mr. WRIGLEY moved to strike out the words "elected to," and insert "present in."

Mr. WRIGLEY. The object is to facilitate business. It seems to me that there might be present a quorum to do business, and yet, with this clause requiring a majority of the members elected even a large majority of the quorum could not pass a bill. Suppose you have 50 members of the House—26 could not pass a bill. Suppose you have 25 members of the Senate, and five are absent, leaving 20 in their places to do business—12 of that number could not pass a bill. A minority of eight senators might prevent the passage of any measure. It seems to me the Convention cannot adopt anything so monstrous.

Mr. SLOUGH. This section requires that a majority of all the members elected to each House shall pass favorably upon any matter before it shall become a law. So that in a House of a hundred members, no mere majority of a quorum, as 26 or 27 members, could pass laws, but it would require 51 members, or a majority of the whole number elected. In several of the States this provision has been found a great safeguard; for without such a Constitutional provision it has frequently happened that members watching their opportunity when the House was thin, have picked up a bill and passed it, when if a majority of the whole body elected had been present, it would not have been done.

Mr. PRESIDENT WINCHELL. Upon the first statement of the case by the gentleman from Doniphan (Mr. Wrigley) I confess that I was ready to concur in his view: but hearing the argument of the gentleman from Leavenworth, I am now satisfied that he is correct. It is certainly important to secure the principle, that the assent of a majority of all the members elected shall be necessary to the passage of a law.

On motion by Mr. McDOWELL, the amendment was laid on the table, and the section was passed without amendment.

Section 14 being read—

Mr. McDOWELL. Mr. President, I expect, sir, in the motion I am about to make, I shall stand in a very respectable minority in this Convention; but believing I am right in the motion, I shall make it and demand the yeas and nays. My motion is that section 14, which gives to the Governor the veto power, be stricken out.

Mr. STINSON moved to lay this motion on the table.

Mr. McDOWELL demanded the yeas and nays, and the same being seconded, ordered and taken, resulted—yeas 38, nays 11—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Barton, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Foster, Forman, Graham, Greer, Hipple, Hub-

bard, Hutchinson, Hanway, Hoffman, Ingalls, Lillie, Lamb, Middleton, May, Moore, McCune, McClelland, Preston, Palmer, Parks, Porter, Ross, Slough, Stinson, Stokes, Thacher, Townsend, Wrigley and Williams—38.

NAYS—Messrs. Brown, Greer, Houston, Kingman, McDowell, McCullough, Ritchie, Signor, Simpson, T. S. Wright and Mr. President—11.

So the motion was laid on the table.

Mr. BURRIS offered the following:

I move to amend section 14 by striking out the word "two-thirds" wherever the same occurs, and inserting in lieu thereof the words "a majority."

On motion by Mr. STINSON, it was laid on the table.

Mr. HUTCHINSON moved to strike out the word "elected," in lines 43, 44: which motion, on the motion of Mr. Slough, was laid on the table.

Mr. BLUNT offered the following:

Strike out all after the word "bill" in the 42d line, to the word "elected" in the 44th line, and insert the following:

[*64] "If after such reconsideration a majority of *the members elected to the House of Representatives shall agree to pass the bill, it shall be sent with his objections to the Senate, by which it shall likewise be reconsidered, and if approved by a majority of all the members elected to that body it shall become a law."

On motion by Mr. SLOUGH, it was laid on the table.

Mr. BURRIS. To make this language consistent, I move to strike out the words "other House," and insert the word "Senate."

It was agreed to.

Mr. GREER moved to insert "majority" in place of "two-thirds."

The PRESIDENT *pro tempore*. That motion is not in order—the Convention having once rejected it.

Section 14, as amended, was then passed.

Section 15 being read—

Mr. Ross moved to amend, by adding the following:

"No bill shall be considered, until the same shall have been printed for the use of members."

On motion by Mr. Slough it was laid on the table; and the section adopted without amendment.

Sections 16 and 17 were read and adopted.

Section 18 being read—

Mr. SLOUGH moved to strike out all after the word "association," in line 57.

Mr. PRESIDENT WINCHELL. I would like to know whether it is contemplated that the article on banking is to be submitted to the people, separately, with the Constitution, or whether any banking law that may be passed by the Legislature shall be submitted? I understand from the gentleman who introduced the section added to the article on banking, that it is not contemplated to submit the article, but that no banking act of the Legislature shall be a law until it shall be submitted and ratified. This, I think, will sufficiently guard this matter.

Mr. SLOUGH. I am satisfied, Mr. President, that it is not necessary to strike out these words, and withdraw the motion.

The section was passed without amendment.

Section 19 being read—

Mr. PRESIDENT WINCHELL. The intention here is that the Legislature shall publish the laws within a reasonable time. To avoid our experience with regard to the Territorial Legislature publishing the laws at the pleasure of the House, I would say here, that they shall be published within a certain time, or immediately. (Agreed, agreed.) The section reads, "The Legislature shall have power to publish the laws." I would prefer a change of this language.

Mr. STINSON proposed the following:

"The Legislature shall provide by law for the speedy publication of the laws."

Mr. PRESTON suggested the words "and distribution."

Mr. WRIGLEY moved as a substitute for the amendment, the following:

"The Legislature shall prescribe the time when its acts shall be in force, and authorize the speedy publication of the same," which was adopted.

Mr. STINSON. That obviates the objection advanced in Committee of the Whole—that the people shall never be placed in the position of not knowing the laws. I would suggest that these words be added: "And no law of a general nature shall be in force till after it shall be published."

Mr. GREER moved ineffectually to commit the section again to the Committee on the Legislative Department.

Mr. PRESIDENT WINCHELL suggested the words "provide for," instead of "authorize."

Mr. WRIGLEY accepted, and the section as amended was adopted, and so passed.

Section 20 being read—

Mr. WRIGLEY moved to amend by substituting: "Be it enacted by the commonwealth of Kansas, represented in Senate and House of Representatives, as follows:"

[*65] *On motion by Mr. SLOUGH, it was laid on the table, and the section was then adopted.

Section 21 being read,

Mr. PRESIDENT WINCHELL. There was a motion made in Committee of the Whole to strike out this section, which did not prevail; and I think the motion should be made again in the Convention. I take it, that, unless there is a prohibition, the Legislature has this power to authorize county legislation. I move to strike out the section, as surplusage.

Mr. GRAHAM. I call for the reading of the first section in the bill, as my speech upon this motion.

The SECRETARY read—"SECTION 1. The Legislative power of the State shall be vested in a Senate and House of Representatives."

Mr. PRESIDENT WINCHELL. I do not understand how that has any bearing on the legislative power of the counties.

Mr. GRAHAM. We delegate that power to the Legislature, and having once delegated it, we cannot delegate again to the County Boards the same power we have delegated to the Legislature.

Mr. LILLIE. I think this power should be express. I do not apprehend that the Legislature can confer any power without a clause authorizing them to do so.

Mr. WINCHELL. If the lawyers are against me, I will withdraw the motion.

Mr. STINSON. I move to strike out section 21.

Mr. WRIGLEY moved to lay this motion on the table, and it was agreed to on a division—affirmative 17, negative 6.

Mr. GREER moved to substitute for the section—

"The Legislature shall confer upon the tribunals transacting county business of the several counties—such administrative powers as it may deem expedient."

On motion by Mr. WRIGLEY, the substitute was laid on the table.

The section was then passed.

Section 22 being read,

Mr. HUTCHINSON. Is that sufficiently explicit to protect members from arrest by legal process?

The PRESIDENT *pro tempore*. I am of opinion it is.

So the section passed.

Section 23 being read,

Mr. PRESIDENT WINCHELL moved its adoption.

Mr. SLOUGH demanded the yeas and nays, and there being a second, the vote stood yeas 28, nays 21, as follows:

YEAS—Messrs. Arthur, Burnett, J. Blood, N. C. Blood, Crocker, Dutton, Griffith, Hutchinson, Hanway, Houston, Ingalls, Lillie, Lamb, Middleton, McClelland, McCullough, Preston, Palmer, Porter, Ritchie, Ross, Signor, Stokes, Thacher, Townsend, T. S. Wright, Williams, Mr. President—28.

NAYS—Messrs. Blunt, Brown, Barton, Burris, Foster, Forman, Graham, Greer, Hipple, Hubbard, Kingman, May, Moore, McDowell, McCune, Parks, Stinson, Simpson, Wright—21.

So the section was then adopted.

Sections 24, 25, 26 (is 27 omitted by mistake?—*Ed.*), 28, were read and adopted.

The report having been thus passed upon by the Convention—

Mr. BLUNT moved to insert the following additional section:

"SECTION 29. Each house may punish for contempt or disorderly conduct, and with the concurrence of two-thirds of the members elected, expel a member—but no member shall be expelled a second time for the same cause."

Mr. BLUNT. This is the same I offered in the committee. It appears to me doubly necessary. Gentlemen may take the view of the question that the provision of the Constitution which gives the Legislature power to adopt rules and regulations for its own government covers this ground. But I do not conceive that to be the case: and I believe that for the Legislature to expel a member without such authority in the Constitution, the [*66] act would be nugatory. I find this pro*vision in many State Constitutions. I could hope that no contingency would arise for the exercise of this authority. Still it could do no harm. And then if it should be requisite to expel, there would be the authority. Gentlemen may take exception to the last clause—"No member shall be expelled a second time for the same cause." The Convention will remember the case in Congress two

years ago requiring such a provision, that of Mr. Matteson, of New York, who had been expelled by a previous Congress, and it was attempted to try and expel him again for the same offense. I think gentlemen will see the necessity of incorporating some such provision: and although the Legislature may never be placed in a position to assume it, still, if there should be occasion, they ought to have the right to exercise it.

Mr. MCDOWELL. I believe this belongs to the power conferred for making rules, and I therefore move that the gentleman's section be laid on the table.

The motion was agreed to.

On motion by Mr. SLOUGH, it was ordered, That this chapter reported from the Committee on the Legislative Department, as amended, be referred to the Committee on Arrangement and Phraseology, and printed.

THE JUDICIARY.

Mr. KINGMAN (by unanimous consent), from the Committee on the Judiciary, submitted the following report:

SECTION 1. The Judicial power of this State shall be vested in a Supreme Court, District Courts, Probate Courts, Justices of the Peace, and in such other Courts, inferior to the Supreme Court, as may be provided by law.

SEC. 2. The Supreme Court shall consist of three Judges, a majority of whom shall constitute a quorum. They shall be elected by the electors of the State at large, and in the first election under this Constitution, shall be chosen as follows: One for two years, one for four years and one for six years, and every two years thereafter one Judge of said Court shall be elected for the term of six years.

SEC. 3. The Supreme Court shall have original jurisdiction in proceedings in quo warranto, mandamus, habeas corpus, and such appellate jurisdiction as may be provided by law. It shall hold one term in each year at the seat of Government and such other terms at said place or elsewhere, as may be provided by law, and the jurisdiction of said Court shall be coextensive with the State.

SEC. 4. There shall be appointed, by the Judges of the Supreme Court, a Clerk of said Court, who shall hold his office two years, and whose duties shall be prescribed by law.

SEC. 5. The Supreme Court shall appoint a Reporter, who shall hold his office for two years, and whose duties shall be prescribed by law.

SEC. 6. The State shall be divided into five Judicial Districts, in each of which there shall be elected, by the electors thereof, a District Judge who shall hold his office for the term of four years. District Courts shall be held by such Judges, in such Districts, and at such times and in such places, as may be provided by law.

SEC. 7. The District Courts shall have jurisdiction in their respective districts as may be provided by law.

SEC. 8. There shall be elected in each county, one Clerk of the District Court, who shall hold his office for the term of four years; who shall be clerk of all other inferior Courts of Record in such county, except the Probate Court.

SEC. 9. There shall be a Probate Court in each county, which shall be a Court of Record, and have such Probate jurisdiction and care of estates of deceased persons, minors, and persons of unsound mind, as may be pre-

scribed by law; and shall have jurisdiction in cases of habeas corpus. This Court shall consist of one Judge, who shall be elected by the qualified voters of the county and hold his office for two years. He shall be his own clerk, and shall hold courts as often as may be prescribed by law. The [*67] com*pensation of such Judge shall be such fees as may be prescribed by law.

SEC. 10. One Justice of the Peace shall be elected in each township, whose term of office shall be two years, and whose powers and duties shall be prescribed by law. The number of Justices of the Peace may be increased in any township as may be prescribed by law.

SEC. 11. All appeals from Probate Courts and Justices of the Peace shall be to the District Court.

SEC. 12. All the Judicial officers provided for by this article shall be elected at the first election held under this Constitution, and shall reside in their respective townships, counties or districts during their respective terms of office. In case of vacancy in any judicial office, it shall be filled by appointment of the Governor until the next general election that shall occur more than thirty days after such vacancy shall have happened.

SEC. 13. All judicial officers shall hold their offices until their successors have been qualified according to law.

SEC. 14. The Judges of the Supreme and District Courts shall, at stated times, receive for their services such compensation as may be provided by law, which shall not be increased during their term of office: *Provided*, such compensation shall not be less than two thousand dollars each year, and such Judges shall receive no fees or perquisites, nor hold any office of profit or trust under the authority of this State, or the United States, during the term of office for which such Judges shall be elected, nor practice law in any Courts in this State during their continuance in office.

SEC. 15. Provision may be made by law for the increase of the number of Judicial Districts whenever two-thirds of the members of each House shall concur therein. Such District shall be formed of compact territory and bounded by county lines, and such increase shall not vacate the office of any judge.

SEC. 16. Judges may be removed from office by concurrent resolution of both Houses, if two-thirds of the members of each House concur therein. But no such removal shall be made except upon complaint, the substance of which shall be entered on the Journal, nor until the party charged shall have had notice thereof and an opportunity to be heard.

SEC. 17. The several Judges of Courts of Record in this State shall have such jurisdiction at chambers as may be provided by law.

SEC. 18. The style of all process shall be "The State of Kansas," and all prosecutions shall be carried on in the name and by the authority of the State of Kansas.

SEC. 19. Until otherwise provided by law, the first district shall consist of the counties of Wyandotte, Leavenworth, Jefferson and Jackson. The 2d district shall consist of the counties of Atchison, Doniphan, Brown, Nemaha, Marshall and Washington. The third district shall consist of the counties of Pottawatomie, Riley, Clay, Dickinson, Davis, Waubonse and Shawnee. The 4th district shall consist of the counties of Douglas, Johnson, Lykins, Franklin, Anderson, Linn, Bourbon and Allen. The 5th district shall consist of the counties of Osage, Coffey, Woodson, Greenwood, Madison, Breckenridge, Morris, Chase, Butler and Hunter.

SEC. 20. New or unorganized counties shall, by law, be attached, for Judicial purposes, to the most convenient Judicial District.

SEC. 21. Provision shall be made by law for the selection, by the Bar, of a pro tem. Judge of the District Court, when the Judge thereof is absent or otherwise unable or disqualified to sit in any case.

On motion by Mr. SLOUGH, this report was made the special order for to-morrow morning at 8 o'clock.

THE MILITIA.

Mr. BLUNT, from the Committee on Militia, submitted the following report:

[*68] *SECTION 1. The militia shall be composed of all able-bodied, white male citizens between the ages of twenty-one and forty-five years, except such as are exempted by the laws of the United States, or of this State; but all such citizens of any religious denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be exempted therefrom, upon such conditions as shall be prescribed by law.

SEC. 2. The Legislature shall provide by law for organizing, equipping and disciplining the Militia in such manner as they shall deem expedient—not incompatible with the laws of the United States.

SEC. 3. Officers of the militia shall be elected or appointed and be commissioned in such manner as may be provided by law.

Mr. SLOUGH moved it be made one of the special orders for to-morrow morning.

Mr. KINGMAN moved as an amendment that the report be considered now.

The latter motion was agreed to, and the report was taken up.

The first, second and third sections having been read by the Secretary, and passed—

Mr. SLOUGH moved as an additional section—

"SEC. 4. The Governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasion. And he shall be Commander-in-Chief of the militia."

The section was adopted.

Mr. RITCHIE moved to strike out the word "white" from the first line of the report.

Mr. MAY moved to lay the motion on the table, and the yeas and nays being demanded and taken thereon, the vote stood yeas 42, nays 6, as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Barton, Brown, Burris, Blood, N. C. Crocker, Dutton, Foster, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Hanway, Hoffman, Ingalls, Kingman, Lillie, Lamb, Middleton, May, Moore, McDowell, McCune, McClelland, Palmer, Parks, Porter, Ross, Signor, Slough, Stinson, Simpson, Thacher, Townsend, Wrigley, T. S. Wright, Williams—42.

NAYS—Messrs. Hutchinson, Houston, McCullough, Preston, Ritchie, Stokes—6.

So the amendment was laid on the table.

The report was then adopted as a whole, and—

On motion by Mr. SLOUGH, it was referred to the Committee on Phraseology and Arrangement.

The Convention then adjourned till to-morrow morning at 9 o'clock.

THURSDAY, July 14.

The Convention met at 9 o'clock A. M.

Prayer by the Chaplain.

The roll was called and Messrs. Houston, Preston and Perry reported as absent.

The journal of yesterday was read by the Secretary and approved.

THE SECRETARY'S JOURNAL.

Mr. SLOUGH. I rise for the purpose of making suggestions with reference to the manner of making up the Secretary's journal. It seems to me the record is not complete, for when a report is referred to the Committee of the Whole, whole sections are sometimes stricken out and others substituted. The substitute, or rather the section as amended is all that is read by the clerk to the Convention and then passed upon. These do not appear as a matter of record. It seems to me that this part of the report should be made more full. As it is we have no minute to show that such changes were made, and it seems to me proper that in amendments coming to the Convention [from] the Committee of the Whole, the section as amended should be made part of the report. I simply make this as a suggestion.

The PRESIDENT. The chair would state that he understands one object of the Committee of the Whole to be to avoid the insertion of so [*69] *much matter in the journal report—to avoid making it too voluminous. This is, however, as a matter of course, in the discretion of the Convention, and any directions they give will be carried out by the Secretary.

Mr. SLOUGH. I make the suggestion that the clerk may see the necessity of it, and make the report as full as possible. The only record he now makes is the report of proceedings in the Convention and the amendments offered in Committee of the Whole are not shown, and cannot be unless he makes a fuller report.

THE PRESIDENT. The Chair is informed by the Secretary that he keeps a complete record and that goes to the Official Reporter, and is embodied in his report.

THE JUDICIARY.

THE PRESIDENT. The special order for this hour is the consideration of the report from the committee on Judiciary.

On motion by Mr. SLOUGH, the Convention resolved itself into a Committee of the Whole (Mr. Blunt in the Chair) and took up the special order. (This report is printed in yesterday's proceedings.)

Mr. SLOUGH moved to take up the report section by section.

The motion was agreed to, and the Secretary read the first section.

Mr. WRIGLEY. Mr. Chairman, I desire to call the attention of the Convention to this section, and I move to strike out the words "Probate Courts." If Probate Courts are needed at all let them be established by the Legislature. I think the other courts provided for will be amply sufficient for our present wants, and if the people shall afterwards desire, in the progress of the State, to institute probate courts, you will have conferred upon the Legislature the power to establish them. In the mean time it is apparent that while the Probate Court will be a heavy expense to the people, and in many counties it is not needed at all, the Legislature may confer upon district courts probate authority; and this will be

amply sufficient for the wants of the people at this time. If there are counties that need a probate court the Legislature can provide it for them —and in those counties where it would be an expense and no benefit the district court may have authority to attend to probate business. That is the way to manage it, in my judgment. I move to strike out these words.

Mr. THACHER. I suggest that the argument of the gentleman falls to the ground when section 9 is considered. That section provides that this court shall be no expense to the county. That the compensation of such Judge shall be such fees as may be prescribed by law. But the necessity of a Probate Judge, especially in *habeas corpus* cases, every one will recognize; a district judge cannot be all over the district at the same time.

Mr. WRIGLEY. I admit if that section is adopted my argument falls to the ground.

The motion was rejected, and section 1 was adopted without a division.

The Secretary then read the second section.

Mr. STINSON. Mr. Chairman, I offer the following as a substitute for section 2:

The Supreme Court shall consist of one Chief Justice and two Associate Justices, a majority of whom shall constitute a quorum, who shall be elected by the electors of the State at large, and, at the first election under this Constitution, there shall be chosen a Chief Justice for the term of six years, one Associate Justice for the term of four years, and one for the term of two years, and every six years thereafter there shall be elected a Chief Justice for the term of six years, and every two years thereafter, except where a Chief Justice is to be elected, an Associate Justice shall be elected for six years.

The object is to make the term of office six years; to have one chief and two associates instead of putting all the judges upon a level.

[*70] *The substitute was adopted.

Mr. J. BLOOD. Mr. Chairman, I move to amend by striking out the words "first section under this constitution" and inserting in lieu thereof "such time and in such manner as the Legislature shall provide," and to further amend by adding "after a term of five years thereafter until the Legislature shall otherwise provide the judges of the several circuit courts, four of whom shall constitute a quorum." I propose this amendment for the reason that I believe the Supreme Court at the present time is unnecessary, and would be attended with heavy expense. Five Circuit Judges would be competent to hold a Supreme Court, and whenever necessary to form a Supreme Court it may be done by the Legislature.

The amendments were rejected—and the section 2 was adopted.

Section 3 was read.

Mr. SLOUGH. Mr. Chairman, I move to strike out the word "said" in lines 7 and 8, and insert the word "said" in its place. I don't like the word "said" except in legal papers.

Mr. THACHER. I would suggest for the words "at such places or elsewhere" the words "in such places and its jurisdiction in such State" before "jurisdiction" add "and" and strike out "of said court." These are mere verbal amendments.

Agreed to.

Section 3 as amended was adopted.

Section 4 was read.

Mr. J. BLOOD moved to insert in the proper place "there shall be elected by the electors of the State an Attorney General who shall serve two years. His duties shall be determined by law."

Mr. KINGMAN. Mr. Chairman, we were instructed to be governed by the Ohio Constitution, and in that instrument under the head of executive officers that clause or one similar is made part of the executive department of the government. That officer will be reported by the committee on the Executive Department.

Mr. BLUNT. Will he be made elective by the people?

A voice. Yes, sir.

Mr. J. BLOOD. I am satisfied, and withdraw my motion.

Mr. PARKS. Mr. Chairman, I would like to offer a substitute for section 4, as follows:

"SECTION 4. A Clerk and a Reporter of the Supreme Court shall be elected by the people, who shall hold their respective offices for the term of two years and whose duties shall be prescribed by law."

The substitute was laid on the table.

Mr. MCDOWELL moved to strike out the word "two" and insert "six."

The motion was laid on the table.

Mr. STINSON. To make the language harmonious I move to strike out the word "Judges" and insert the word "Justices" on account of the phraseology in the second section.

The motion was agreed to by consent.

Mr. MCDOWELL moved to amend by striking out the word "two" and inserting in lieu thereof the word "four."

Laid on the table.

Section 4 was then adopted.

Section 5 was read.

Mr. PORTER moved to amend by striking out all after the word "office" and inserting the words "during the pleasure of the Supreme Court." This officer is appointed by the court, is responsible to it, and should be made amenable to it.

The motion was rejected.

Mr. PORTER moved to strike out the word "two" and insert the word "four."

Laid on the table.

Mr. HOUSTON moved to strike out the words "the Supreme Court shall appoint," and insert in lieu thereof "the people shall elect."

Laid on the table.

Section 5 was then adopted.

Section 6 was read.

[*71] *Mr. HOUSTON moved to amend by inserting "three years" instead of "four years."

Laid on the table.

Section 6 was then adopted.

Section 7 was read and adopted.

Section 8 was read.

Mr. STINSON. I move to amend this section by striking out all after the word "years." I don't believe in electing a man to more than one office at a time.

Mr. LILLIE moved to amend the amendment by inserting after the word "years" these words: "whose duties shall be such as may be prescribed by law."

A voice. I move to lay the amendments on the table.

Mr. KINGMAN. It seems to me the amendment of the gentleman is right and proper.

The amendments were laid on the table.

Mr. SLOUGH. I now move the adoption of the amendment suggested by the gentleman from Madison (Mr. Lillie).

Mr. THACHER suggested that the amendment should begin with the word "and."

These motions were agreed to, and the section 8 as amended was adopted.

Section 9 was read.

Mr. KINGMAN moved to insert the word "and" after the word "clerk," and before the word "shall."

Mr. GREER moved to strike out the word "this" before the word "Court," and insert "his."

Mr. KINGMAN. "His" would have no antecedent.

The amendments were laid on the table and section 9 was adopted.

Section 10 was read.

Mr. STINSON. I move to strike out the words "in any township as may be prescribed," as I suppose that was the intention of the Committee.

Mr. THACHER. I propose to strike out the words "in any township," and insert "in different townships."

Mr. STINSON. If you strike out at all why not strike out "in any township as may be prescribed"?

Mr. BURRIS. Mr. Chairman, it seems to me that the section is better now than the proposed amendments would place it. There may be a mode prescribed by which justices are increased in some and not in other townships. It seems to me that by striking out as proposed the section would provide for the number of justices being increased in all the townships. The way it now stands, and the way the committee intended it should be, the Legislature may prescribe by law the manner in which the number of justices in some of the townships might be increased were it found necessary. Perhaps some townships in this county might find it necessary to have two or three or four. By adopting the amendment would it not provide for an increase of justices by law with reference to all townships?

Mr. STINSON. I think not.

Mr. BURRIS. It seems to me as it reads, there could be no misunderstanding in regard to it.

Mr. GREER. That question occurs again in a section in the Legislative Department requiring all laws to be uniform throughout the State; and if this section is adhered to there must be necessarily the same number of justices of the peace in every township.

The amendments were rejected.

Mr. McDOWELL. I propose to make a suggestion. I think the jurisdiction of justices of the peace in civil cases should not exceed fifty dollars. I hope the committee will not leave that whole subject to the Legislature, for probably the Legislature will be composed mostly of justices of the peace, and having unlimited control they may give themselves jurisdiction in cases up to five hundred or a thousand dollars. I think there ought to be a point fixed beyond which they could not go.

[*72] *A justice's court is a necessary court for certain purposes in each township. For that reason I voted for a justice's court, but I do approve of the policy of restricting them, and I think this is the place to do it.

The CHAIRMAN. Does the gentleman from Leavenworth propose an amendment?

Mr. McDOWELL. I will at the proper time, but I have not time now to draw it up.

Mr. BURNETT. Mr. Chairman, I move an amendment by striking out the word "one." I do not believe it is the business of this Convention to prescribe the number of justices in each township. It is not a proper subject for this body to determine.

Mr. HUTCHINSON. Strike out the last sentence.

Mr. BURNETT. I accept the amendment.

Mr. THACHER. I apprehend there are a great many townships that do not require but one justice of the peace.

A voice. There are many townships that would require at least two justices.

Mr. McDOWELL. Mr. Chairman, I propose to insert in section 10, after the words "two years," as follows: "and whose jurisdiction in civil cases shall not exceed fifty dollars."

Mr. BURRIS. Mr. Chairman, I entertain the same opinion of these amendments that I did of the others. I believe they only make this matter worse. I see and can understand the reason why Leavenworth is desirous to restrict the jurisdiction of justices of the peace. The design of the committee was to have a different class of men in that office to what we have had. If we were always to have such men in that office as it has been my lot to be thrown before, I say, let them have no jurisdiction at all. The design is to elevate—to raise the office—to get a different class of men into the offices of justices of the peace. That was one object the committee had in view by providing for but one. The motion of the gentleman from Leavenworth, if it should prevail, restricting their jurisdiction to sums no more than fifty dollars, would produce the same effect—make the office worth nothing, and we would have just such a set of justices of the peace as we have been cursed with in the Territory. If we have but one justice in each township let him have jurisdiction to the amount of one hundred dollars. Unless the Legislature will establish other inferior courts I am of opinion the jurisdiction of justices of the peace should be extended to two or three or possibly five hundred dollars. Let them have some jurisdiction worth while, let there be but one of them in each township, and then we will have justices who are capable of discharging the duties of that office. I think this would be effectually accomplished by taking this section as reported by the committee, and leave it to the Legislature to give them such jurisdiction as the wants of the people may require. I am opposed to all amendments, and hope that none will prevail.

Mr. THACHER. Mr. Chairman, I wish to offer an amendment, that

instead of fifty dollars, the jurisdiction of justices of the peace be placed at five hundred dollars.

The CHAIRMAN. The amendment of the gentleman from Leavenworth (Mr. McDowell) is not in order.

Mr. KINGMAN. Mr. Chairman, I move that all the amendments be laid on the table.

The motion was agreed to.

Mr. MCDOWELL. It seems as the section now stands there is no restriction to justices of the peace. This section is a nullity because the first section of this article provides that "the judicial power of this State shall be vested in a Supreme Court, district courts, probate courts, justices of the peace, and such other courts, inferior to the supreme court, as may be provided by law." I think there is sufficient provision made for justices' courts in that section, unless there be a willingness to throw some re-[*73] striction around their juris*diction. I move to strike out this entire section.

The motion was laid on the table.

Mr. HIPPLE. Mr. Chairman, I move to amend by making the section read: "One justice of the peace shall be elected in each township, borough or ward."

Laid on the table.

Section 10 was then adopted.

Section 11 was read and adopted.

Section 12 was read and adopted.

Section 13 was read.

Mr. SLOUGH. The language of that section might be improved by striking out "have been" and inserting the words "shall have."

Agreed to by consent.

Section 13 was adopted.

Section 14 was read.

Mr. J. BLOOD. Mr. Chairman, I desire to amend by striking out the words, "Provided such compensation shall not be less than two thousand dollars each year." You have provided for the election of eight judges at not less than two thousand dollars to each judge, which amounts to sixteen thousand dollars a year and other expenses of court. If these expenses shall be paid as heretofore, by taxes, this will be found to be a very high salary. I am opposed to that number of judges, believing that for years to come the business will not be sufficient to employ five. The Convention has provided for eight, and now if we say their salaries shall never be less than two thousand dollars per year, it is providing for a good deal of extravagance.

Mr. MCDOWELL. I sincerely hope the amendment will not prevail. I cordially agree with the committee on the judiciary in the propriety of fixing a minimum salary in the Constitution for judicial officers, and I do not think their minimum too high. In some considerable experience in another State, I think my experience will correspond with that of other gentlemen. I have found that you cannot get the best judicial talent on the bench unless you offer an adequate salary. I take it, no man will deny the proposition that it is not important to have the very best legal talent on our bench, particularly the supreme bench. In order to withdraw a lawyer from a lucrative practice and induce him to take a position on the

bench you have to give him something more than the empty honor. In Ohio where the minimum was fixed at fifteen hundred dollars for the common pleas judge, it was found, in populous counties, embracing large towns where the expense of living was high, that the judges could not live upon the salary they received; and there has been petition after petition sent up to the Legislature of Ohio asking for a provision to change the Constitution in that particular. The people are dissatisfied with the salary, and the judges are resigning. You cannot find in the State a single common pleas judge who could live upon the salary. A lawyer in good practice makes a good deal more than two thousand dollars a year, and unless a lawyer is in pretty good practice I take it he is not fit to be elected to the position of judge. You cannot get a man to give up a practice that pays him more than the minimum rates under the Constitution to accept it.

Mr. Chairman, I hope the Convention will sustain this proposition. As a question of expense it is a mere minor consideration, which practically amounts to little. Gentlemen have voted to fix the number of members in the Legislature at seventy-five. The question of expense did not seem to influence them in that action; and that expense will be much larger than this can be. I never heard a tax payer object to giving a good salary to judicial officers. Before that judiciary his rights may come to be adjudicated upon, and he wants the very best legal talent to pass upon those questions. And when it is evident that talent cannot be obtained without some inducement in the way of salary, it seems to me inevitable that [*74] gentlemen will sustain the *proposition. The people of Cincinnati, although taxed more than the people of any other part of the State, cheerfully gave the judge of their superior court a salary of thirty-five hundred dollars, and they have got the very best legal talent in that court. Sitting side by side was the common pleas court upon a salary of fifteen hundred dollars. That court has usually been filled by young lawyers of small practice and small ability. I think that gentlemen will find the people will not object to giving good salaries to their judicial officers. I hope the proposition will not be changed, but that the recommendation of the committee will be adopted.

Mr. J. BLOOD. I propose by my amendment to leave the matter of salary with the Legislature to fix.

Mr. MCDOWELL. You propose to strike out—practically the same thing.

Mr. J. BLOOD. Mr. Chairman, in reply to the complaint of inability to procure good legal talent for a less salary than two thousand dollars a year, I will say that I was informed by the Judge of this circuit (Judge Williams) that he did preside as a Judge in the State of Iowa at a salary of but one thousand dollars a year. I have no doubt but that for a few years to come the best legal talent of the Territory could be obtained for a less salary than two thousand dollars. If left to the Legislature the salary can be raised to two thousand or a higher amount. The committee report says it never shall be less than two thousand, without limiting the amount.

Mr. LILLIE. I do not think it best for this Convention to restrict the salary of Judges to not less than two thousand dollars. It is probably right we should restrict the Legislature in some things, but not to that extent. In Missouri fifteen hundred dollars has secured good judges. It is not always the case money will secure good legal talent. I am in favor

of giving good and sufficient salaries to judicial officers, but I think two thousand dollars too much for the minimum.

The amendment was adopted upon a division—yeas 20, nays 16.

The motion was agreed to by consent.

Mr. STINSON suggested that the word "Judges" in this section be made "Justices."

It was agreed to by consent.

Section 14 was then adopted.

Section 15 was read.

Mr. SLOUGH. Mr. Chairman, I move to strike that section out. It was provided for yesterday in the article on the Legislative Department.

Mr. MCDOWELL. I don't think it is provided for.

Mr. THACHER. It amounts to the same thing with the exception that the carrying into execution must be by a two-thirds vote of the Senate. I think the section should be stricken out.

Mr. KINGMAN. I understand a man can be impeached only for high crimes or misdemeanors; and if we have a person thrust upon us in this position who is not qualified shall we have to bear with that affliction for six years?

Mr. SLOUGH. It seems to me that in the section adopted yesterday large power was given to the Legislature to impeach.

Mr. BURRIS. The word "impeachment" and the term "removal from office" are not synonymous. "Impeachment" carries with it removal from office, but removal does not carry with it the idea of impeachment. If a case should arise where the judge is removed and no charge brought against him and sustained, it would be proper that this section should be retained; but believing it is possible—barely, perhaps—that it might be proper to remove a Justice from office and get [yet?] the charge of impeachment not be sustained against him before the Legislature, I shall vote against striking that section out.

[*75] *Mr. J. BLOOD. I am opposed to striking out. Every lawyer is aware it is almost impossible to impeach a Judge—while all admit cases do occur where it is desirable that he should be removed.

The motion to strike out was lost.

Mr. STINSON. I move to insert "Justices of the Supreme Court and" before the word "Judges."

It was agreed to by consent, and section 15 was adopted.

Section 16 was read.

Mr. KINGMAN. I move to insert the word "Justices" before "Judges" so that it will read "the several Justices and Judges," &c.

Agreed to by consent.

Section 16 was then adopted.

Section 17 was read and adopted.

Section 18 was read.

Mr. MCDOWELL. Mr. Chairman, I would suggest that one or two counties have been left out; the county of Wilson I am told is probably organized.

Mr. KINGMAN. The committee inserted all organized counties they could find.

Mr. LILLIE. In the fifth district is the county of Wilson.

Mr. STINSON. Is it organized?

Mr. LILLIE. I guess it is not yet organized.

Section 18 was then adopted.

Section 19 was read and adopted.

Section 20 was read.

Mr. HUTCHINSON. Mr. Chairman, I move to strike out the entire section.

Mr. KINGMAN. That provision was the subject of a great deal of ridicule in an adjoining commonwealth at the time of its adoption, but has since saved to that commonwealth thousands of dollars. In case the judge does not appear, and the litigants and others connected with the suit are present, the bar proceeds to the election of a Judge in place of the one absent, and in that way more money has been saved to litigants than would pay the salaries of all the judges in that commonwealth. Another important consideration is that very frequently the men who may be selected as Judges of the district court will be men who have shown themselves qualified by obtaining considerable practice, and with a large number of cases before them in many of which they may have been interested—those cases, without some such provision as this will have to be moved into an adjoining district and the parties denied the benefit of a speedy trial, besides being put to considerable extra expense. I think some provision of this character ought to be inserted, so that in case the judge is interested as a party to the suit, and conceives that he is prejudiced, the bar can make a selection of a judge, and so the case be permitted to go on.

The motion was laid on the table.

Mr. SLOUGH. Mr. Chairman, I move that the committee rise.

The motion was agreed to—the committee accordingly arose, and reported the Article IV (Judiciary) to the Convention with sundry amendments.

The PRESIDENT. What disposition will the Convention make of the report?

Mr. HIPPLE. I move that it be taken up and considered section by section.

The motion was agreed to.

Sections 1, 2, 3, 4, 5 and 6 were read and adopted.

Section 7 was read.

Mr. BURRIS. Mr. Chairman, I desire to offer a substitute for section 7, as follows:

"SECTION 7. There shall be elected in each organized county one clerk of the district court who shall hold his office for the term of two years, and whose duty shall be prescribed by law."

We have already decided that the term of office of the supreme court clerk shall be two years—that seems to be the term set for most of the officers—and it seems to me that the clerk of district court should not hold [*76] his office *longer than the supreme court clerk and reporter. But the principal point I wish to call attention to is that my substitute does not provide for his being the clerk of any other court. The section as passed by the committee declares that the clerk of the district court in each county "shall be clerk of all other inferior courts of record in such

county," &c. It seems to me one court would be sufficient for him to be clerk of. I prefer that he hold office for two years, be duly the clerk of the district court, and let there be provision made for the clerks of other courts. Let the district court clerk be merely the clerk of the district court. If the Legislature provides for other courts let it provide also for a clerk.

The substitute was adopted, and then the section as amended was adopted.

Section 8 was read.

Mr. BURRIS. Mr. President, I desire to amend by adding after the words "habeas corpus" the words "and injunction." It does seem to me the probate judge ought to have authority to grant a writ of injunction, and let that be returned to the district court.

Mr. THACHER. I agree with the gentleman, but I would ask if in the 17th section the Legislature have the power to do that thing?

Mr. SLOUGH. No doubt about it. I move to lay the amendment on the table.

The motion was agreed to.

The section was then adopted.

Section 9 was read.

Mr. MCDOWELL. Mr. President, I have an amendment to section 9. After the word "years" insert "and whose jurisdiction in civil cases shall never exceed fifty dollars."

Mr. THACHER. I move to amend by inserting in lieu of "fifty" "five hundred dollars."

Mr. KINGMAN. I move to lay both amendments on the table.

Upon this motion the yeas and nays were demanded, and being ordered and taken resulted—yeas 12, nays 36—as follows:

YEAS—Messrs. Blunt, Foster, Greer, Griffith, Hubbard, Ingalls, McDowell, McClelland, McCullough, Ritchie, Stinson, Simpson—12.

NAYS—Messrs. Burnett, Brown, Barton, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Forman, Graham, Hipple, Hutchinson, Hanway, Hoffman, Houston, Kingman, Lillie, Lamb, Middleton, May, Moore, McCune, Palmer, Parks, Porter, Ross, Signor, Slough, Stiarwalt, Stokes, Thacher, Townsend, J. Wright, Wrigley, T. S. Wright, Williams—36.

So the amendments were not laid on the table.

Mr. STINSON. Mr. President, I move to amend the amendment by adding after the word "years" the words, "and whose jurisdiction in civil cases shall not exceed one hundred dollars or extend to any case involving title to real estate."

Mr. THACHER. I move to insert in place of "one hundred" "five hundred dollars."

The amendments were laid on the table upon a division—affirmative 20, negative 18.

Mr. HIPPLE. Mr. President, I move to amend where the word "two" occurs by making it read "three." "Two justices shall be elected in each township, or ward, whose term of office shall be three years."

Mr. THACHER. I second the motion, and call for a division of the question.

Mr. PRESIDENT. A division is not in order under the rules.

Mr. THACHER. I think I can refer—

The PRESIDENT. The gentleman is right. This is a motion to strike out and insert.

Mr. J. BLOOD. I move to amend the amendment by striking out and inserting "one" instead of "three years."

The motion was rejected; and the amendments were laid on the table.

Mr. MCDOWELL. Mr. President, I desire to alter this section so that it may read "two" justices of the peace, instead of "one." I am satisfied that such an amendment would save a great deal of special legislation, because all our townships are large, as laid out, and those that do not now, soon will be compelled to have as many as two.

[*77] *Mr. BURRIS. Mr. President, I have looked into this matter some considerably, and I cannot see any more necessity for two justices of the peace in each township, and not as much, as there is for two judges of the district court in each judicial district. Of course there must necessarily be a provision made that if the justice of the peace before whom suit is brought is related to either of the parties, or is interested in any way, they can commence their suit in an adjoining township, just as a case is taken to an adjoining district when the judge of the district court is interested. Then there would be but little expense attending the change to a neighboring township, for there would be but three or six miles to go. The only question in my mind seems to be, whether one justice of the peace could attend to all the duties of his office for the whole township. As it is now, our justices have so little to do that they do not learn what the duties of their offices are. I cannot see any necessity for a greater number than one in each township, unless it should be in a very populous one indeed. I cannot see why, when we come to the lower offices, we should provide for a plurality of justices. I am in favor of having but one justice, giving the Legislature power to provide for an additional number in any township where it may be necessary. In the counties of Leavenworth, Atchison, Douglas, Doniphan, Shawnee and Wyandotte it may be necessary to have an additional number, but in ninety-nine cases out of a hundred one justice of the peace would subserve all the interest, for which that office was created better than more. I hope the motion will not prevail.

Mr. STIARWALT. I think the amendment a good one, and I have this reason to offer. Where there is but one justice of the peace in each township, that man is not all the time present in his office. While I am against having four, I am in favor of having two. I do not think it ought to be left to the Legislature. These justices are paid by fees for their services, and if gentlemen who are elected don't wish to serve, they need not. Should the people elect a man who is not competent, they will not again. I think that one-half of the debts of a community goes before justices of the peace; consequently the greater amount of money collected is in that way; and we ought to have the justices' court so that we can get at it handily, and if one is absent we should have another to apply to.

Mr. BURNETT. Mr. President, we have a township ten or fifteen miles in extent. If we have but a single justice, and he is disqualified, we are under the necessity of going outside of the township some fifteen or twenty miles to get at another. I think gentlemen can easily see the necessity for more than one justice in this case. I hope the proposition will prevail.

The amendment was adopted, and the section, as amended, was adopted.

Sections 10, 11 and 12 were read and adopted.

Section 13 was read.

Mr. MCCLELLAND. Mr. President, I was not in when the amendment was made to the section in the committee of the whole. I therefore move to insert, after the words "term of office," where they first occur, the words "*Provided,* such compensation shall not be less than eighteen hundred dollars." I make this motion because I am satisfied the people of the county will sustain it. This office should be filled by competent persons, and it is certain, almost, that the place will not be competently filled unless you give a sufficient remuneration for the services you ask.

A member. I move to lay the amendment on the table.

On this motion the yeas and nays were demanded, and being ordered and taken, resulted—yeas 25, nays 21—as follows:

[*78] *YEAS—Messrs. Burnett, Blunt, Barton, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Forman, Griffith, Hutchinson, Hanway, Ingalls, Lillie, Lamb, Middleton, May, McCullough, Porter, Ritchie, Signor, Stiarwalt, Townsend, T. S. Wright, Williams, Mr. President—25.

NAYS—Messrs. Brown, Foster, Graham, Greer, Hipple, Hubbard, Hoffman, Kingman, Moore, McDowell, McCune, McClelland, Palmer, Parks, Ross, Slough, Stinson, Simpson, Thacher, J. Wright, Wrigley—21.

So the amendment was laid on the table.

Mr. GRAHAM. Mr. President, I desire to offer an amendment. Insert after the word "office," where it first occurs, the words "*Provided,* such compensation shall not be less than two thousand dollars each year." It strikes me, sir, that the judge of the court is more important to the people of new States than that of Governor, or any other officer. The judges have in their hands the disposition of your property and your money. It strikes me that everything should be done for the purpose of calling to the bench the best legal talent of the country. As a safeguard to the interests of the people, this is of more importance than anything else that will come before us. To secure the best talent, I am well satisfied you must pay well for it—if you have your best men upon the bench, you must pay them a liberal compensation. I am satisfied from my experience in Kansas, that the amount now fixed upon is not enough. Look at the enormous expense those judges will be put to in traveling. When Judge Williams presided in Iowa (he has been quoted as authority here) for one thousand dollars, what were the facts of the case? I have it from that gentleman himself. Giving a little history of the incidents of his court there, he has told me that when he stopped at farmers' houses, not one time in twenty did they ever charge him a cent. Now, in this country, no matter how humble or small the shanty in which you get a dinner, the charge is fifty cents. There Judge Williams said no man thought of charging more than sixty or seventy-five cents a day for a man and horse. But our prices will range with those of California, where the judges are paid large salaries. Mr. President, I have no personal interest in this matter; I offer my amendment only for the purpose of putting your best men upon the bench. I am no lawyer, and can never fill the position myself. But I have a great desire to get the best men upon the bench that your Territory can afford, and you can't get good men without paying them well. Are you afraid to pay these men enough for fear you may lose a vote? That is not my situation, sir.

Mr. STINSON. Mr. President, I cannot say that I have not a personal interest in this matter. I do feel a personal interest to see this motion carried. I desire that when the new State of Kansas sends forth its re-

ports to the country, they shall carry dignity and force with them, and not as the early reports of many of our Western States have been—a mock and a by-word. You cannot, in Kansas or elsewhere, get a man fit to occupy a seat upon the supreme bench whose practice is not worth more than two thousand dollars a year. I agree with my friend from Atchison, (Mr. Graham) it is a responsibility that no man ought to shirk. If any man believes that a man fit to occupy a place on the supreme bench whose services can be procured for less than two thousand dollars, I stand here to tell him he is under a misapprehension of the facts. I speak by the card. I know something of these matters. I wish to place it beyond the reach of a body which may not have the same amount of independence which this Convention I hope has. If the Legislature should come and fix the salary at a less sum than we now ask, every bench would soon become vacant. It is only upon the supposition that you can have cheap judges that you should put it below this; and I do not want to practice before a [*79] cheap judge. This *is the lowest rate that ought to be established, and I do hope, and shall hope, that the Legislature will bring the salary of our judges up to the highest—say twenty-five hundred or three thousand dollars—and the State would be benefited thereby.

Mr. BLUNT. Like the gentleman from Atchison, I am no lawyer, and consequently never expect to derive any benefit in the matter other than what I derive in common with all the citizens of this Territory, but I do believe it is necessary, in order to carry out the idea of retrenchment that has been suggested here, to curtail the salaries of officers of the Territory. The curtailment should be applied to some other department than the judiciary. I consider the matter of securing good legal talent upon our bench, as one of very great importance. It is a matter which affects us all. Before that tribunal we have a common interest. It is there where all matters pertaining to our individual interests, our property, and indeed our life itself, depends. I know there is now no person practicing his profession in Kansas who has the legal talent sufficient to qualify him to sit upon the supreme bench, who does not make more than two thousand dollars per year. I have seen the practical operation of this thing of working judges on low salaries. In Ohio, where the salary was fifteen hundred dollars—but which, I believe, they have increased to eighteen hundred—in the district in which I resided we never had a judge who sat on the bench more than one year. There was many a man in the profession of law who would accept the place just long enough to be dubbed "Judge," and then resign, from the very fact that the salary was not sufficient to pay the expenses and afford a livelihood. Such will be the case in Kansas, unless we provide against it. Let us then fix the minimum salary at an amount which will secure good legal talent; and if it is necessary, in order to carry out this provision, to retrench in some other department, I am perfectly willing to do it.

Mr. J. BLOOD. I do not understand there has been any proposition to lower the salary. The question is whether this Convention shall fix the salary at a high rate and prohibit the Legislature from ever lowering it. In reply to the assertion that it is impossible to procure the best talent for less than two thousand dollars, I would say, I differ in opinion with those who take that view. In the State of Wisconsin the salary of judges was fixed at fifteen hundred—the circuit judges performing the duties of circuit and supreme judges—and there was no difficulty in procuring the best legal talent of the State upon the bench. Men of more ability than perhaps any other lawyers in the whole West, presided for years at a

salary of fifteen hundred dollars, and there never was a complaint that it was too low.

Mr. HOUSTON. Mr. President, I hope this amendment will not prevail. I do not think we should load this Constitution, as it is to come before the people. One of the objections to which this Constitution may be liable, will be the expensiveness of the government. The Legislature, when assembled, should be competent to give your judges two thousand or five thousand dollars. If one thousand will not secure the requisite talent, let them offer more—let them offer such a salary as will secure the services of a competent judge. I hope gentlemen will take no such position as the one proposed. It seems to me unnecessary, and as likely to defeat the Constitution before the people. Some sixteen or eighteen thousand dollars I am unwilling to pay for our judicial salaries, when I believe the business can be done for ten thousand dollars for years to come.

Mr. WRIGLEY. I move to amend the amendment by inserting "fifteen hundred" instead of "two thousand."

Mr. J. BLOOD. I move to lay the amendments on the table.

The yeas and nays were demanded, and being ordered and taken, resulted—yeas 21, nays 29—as follows:

YEAS—Messrs. Burnett, Barton, J. Blood, N. C. Blood, Crocker, Dutton, Griffith, Hutchinson, Hanway, Hoffman, Houston, Kingman, Lillie, Lamb, Middleton, Stokes, Thacher, Townsend, Wrigley, Wright, Williams —21.

[*80] *NAYS—Messrs. Blunt, Brown, Burris, Foster, Forman, Graham, Greer, Hipple, Hubbard, Ingalls, May, Moore, McDowell, McCune, McClelland, McCullough, Palmer, Parks, Porter, Ritchie, Ross, Signor, Slough, Stinson, Stiarwalt, Simpson, J. Wright, Wrigley—29.

Mr. WRIGLEY. I withdraw my amendment to the amendment.

Mr. THACHER. Mr. President, I have thought of this matter considerably, and this consideration occurred to my mind. The supreme court will have comparatively nothing to do for some years to come. Their duties will be performed in a space of time not to exceed two months in each year, and it strikes me the salary is too large for their time actually occupied. The district judges will have all they can do from the start. I do not believe you can get any Legislature together which will fix the salary too low, and therefore, although I was originally in favor of two thousand dollars as the minimum, I think it proper to vote as I did, and leave it to the Legislature.

Mr. GRAHAM. Mr. President, my friend thinks there is no danger of the Legislature fixing the salary too low. I think different, from having facts to stand upon. In the State of Indiana the Legislature fixed the salary at one thousand dollars a year. Judge Pettit, your present supreme judge, was elected there, and the district which elected him made him up two thousand five hundred dollars by donation, from the very fact they could not get a good, talented man to take that office at one thousand dollars a year. I know men usually want to return to the Legislature. The dear people are always in their eyes, and they are afraid to increase salaries for fear it will injure them among their constituents. This is a place where I hope we have come together without any prejudices, to make a Constitution that will be a creditable one to the country, and stand side by side with any of the thirty-three.

Mr. WRIGLEY. Mr. President, I very heartily support the amendment

of the gentleman from Atchison (Mr. Graham). Let me call the attention of the Convention to this section. It provides that these judges shall receive no fees or perquisites. I believe it is not common in Constitutions of the States to prohibit judges from practicing law. We have done so, or will do so in this Constitution. They will then be shut out from all practice, and their expenses will be large in traveling in their districts. But I wish to advert to a little experience I have had in this matter. In Indiana their judges have but one thousand dollars, and that office goes begging for suitable persons to take it; and it is difficult to get any person to accept the nomination who is competent. In one of the most important circuits, a man was elected who was especially unqualified, and the bar almost unanimously requested his resignation. He trampled upon the rights of litigants, and not only disgraced himself, but the position he occupied. He refused to resign, and the Legislature had to take the matter in hand and make a new district out of his four counties—assigning to him only one county with a small population. I tell you, Mr. President, you cannot get men to take this position for a less salary than two thousand dollars a year. I believe the salary should be fixed or limited now. Before the Legislature will meet, nominations will have to be made, and you will find it difficult to get men who are qualified to trust this thing of salary to the hands of the Legislature.

Mr. WRIGHT, of Nemaha. Mr. President, I know something about that matter in Indiana. In one of the districts, composed of seven counties, they got Judge McCarthy, one of their ablest judges—since elected to the Senate of the United States—to fill that place for years, and I know plenty of men that could be found for one thousand a year. I know of the circumstance spoken of by the gentleman who has just taken his seat; I know that judge was illy qualified for the place, but he was put there under circumstances got up for political trickery.

Mr. WRIGLEY. Mr. President, the gentleman undoubtedly refers to my remarks. I do not understand that he says I misstate the facts in the case. I said that a man in Indiana was chosen judge who was not competent to fill that position; that he was requested by the bar to resign, but refused; that the Legislature created a new district out of his and assigned to him a single county. If this is not a correct statement I desire the gentleman to correct me. I also stated that the office of judge goes begging in that State; and if that is not correct I desire to be corrected.

Mr. GREER. Mr. President, I do not rise to take part in this discussion, but merely to state what I know; as it may have some weight. I resided in the State of Indiana prior to the adoption of its present Constitution, and when the judges were elected by the Legislature, and competent men were always on the bench. After the adoption of the new Constitution [*81] judges *were elected by the people. From some cause or other such a class of men were elected to the circuit judgeship as were found totally incompetent; which produced such a want of confidence in these courts that in a short time the business of these courts was increased from about two or three hundred cases on docket to some four thousand. The consequence is that the attention of the Judges is so completely taken up that now cases remain upon the docket of the Supreme Court for years, because they are accumulating; and the Judges have not time to dispose of all the cases that come up to be adjudicated. The reason of this accumulation of cases on the Supreme Court docket is that the circuits are filled with men totally incompetent to discharge the duties of the bench. Now, sir, in view of the facts, that the judge of the District Court shall

not receive practice—shall not hold any other office—his time totally devoted to public business, and cut off from making money in any other way —it strikes me that $1,800 or $2,000 would not be too much. The people would be perfectly willing to pay a competent man $2,000, in preference to having an incompetent one for $1,800. The people would not only be gaining in a pecuniary point of view, but in the reputation of the judiciary of the State. I think, from the manifestations here, that there ought to be some clause adopted, declaring that the Legislature shall not fix the salaries of Judicial officers at a low price. If it is fixed at a low price the people are the worse off.

Mr. GREER. I wish gentlemen to recollect that the titles to lands in many sections of this country have not all been settled yet, and the people will go against a high rate of taxation and refuse to pay high salaries in the beginning. I would like to see this matter placed in the hands of the Legislature, because I feel satisfied that the people will be almost certain to fight against this Constitution if it provides for a high rate of salaries to begin on. I think it wise to let it remain for the Legislature to fix hereafter.

Mr. BURRIS. Mr. President, I desire to offer the following substitute for the whole section:

"SECTION 14. The Justices of the Supreme Court and Judges of the District Courts, shall at stated times receive for their services such compensation as may be prescribed by law, which shall not be increased during their respective terms of office; *Provided,* such compensation shall not be less than fifteen hundred dollars to each Justice or Judge thereof, each year, and such Judges shall receive no fees or perquisites, nor shall hold any other office of profit or trust under the authority of this State, or the United States during the term of office for which such Judges shall be elected, nor practice law in any of the courts of this State during their continuance in office."

Mr. MCCLELLAND. Mr. President, I shall oppose this amendment. In our county they are as careful about high taxes as they can be anywhere, and the only thing I am instructed upon is to create a few offices and give to them fair salaries. I think the salary proposed by the committee is not at all too large.

Mr. BURRIS. Mr. President, either the gentleman from Jefferson (Mr. McClelland) or I am laboring under a misapprehension as to the effect of the last amendment. The proposition of the gentleman from Atchison (Mr. Graham) was that the salary should not be greater than $2,000.

A voice. "Not less."

Mr. BURRIS. I misunderstood it. I was under the impression it read "shall not be greater." I will withdraw my substitute.

Mr. STIARWALT. Mr. President, I shall be compelled to vote against the amendment of the gentleman from Atchison, because I believe it a bigger salary for the Judge's office than you will find in any new Constitution, and more than one-half of the old ones. There are gentlemen in Missouri that have been upon the bench at a salary of $1,000 a year—have been subsequently sent to Congress and have come back and accepted the same office again. Either these gentlemen are very fond of sitting on the bench or else they get along with the compensation pretty well. I would vote for $1500 but shall oppose $2000.

The PRESIDENT. The hour of 12 o'clock having arrived, the Convention stands adjourned till 3 o'clock.

And accordingly, the Convention took a recess till 3 o'clock P. M.

THURSDAY, July 14.

AFTERNOON SESSION.

Mr. PRESIDENT. The order of business is the consideration of the report of the committee on the Judiciary Department. At the time of adjournment, the Convention was engaged in the consideration of section 14, the question being upon an amendment offered by the gentleman from Atchison.

[*82] *Mr. McDOWELL. Mr. President, before the vote is taken upon the amendment, I desire to state a few reasons which present themselves to my mind why there should be fixed a minimum salary for District Judges in the organic law; and against leaving the question for legislative action. The gentleman from Douglas (Mr. Blood) whose substitute was adopted this morning says he does not propose to cut down the salary, to prevent the Judges from getting a good salary, but he simply proposed to leave the whole question to the Legislature and let them determine from the facts before them what would be a fair and proper compensation for the judiciary.

But again, sir, this question of whether we shall have a good, stable, reliable judiciary is one second to none other in importance that comes before this Convention, and I start out with the proposition that unless the judiciary is well paid it will be, instead of what it ought to be, a credit to the State, a positive disgrace. Nothing so much, sir, fixes the character of a State as the character of its judiciary. Let it be understood that you have a bench that understands the law—that properly expounds the law—and it is conceded that your laws are enforced, and at once a confidence is enkindled in the State and its institutions. But, on the contrary, if you have your laws and judicial interests left to the control of inefficient, weak and unqualified men, it defeats and turns the whole thing into disgrace. I think I cannot be wrong, sir, in saying that although there may be some considerable expense attending the rule, yet the rule is, that if you cannot secure the best talent unless you offer some pecuniary inducements; and without the best talents you cannot have the best judiciary. I object to leaving this question to the Legislature, because in Legislative bodies there are always a great many more politicians who will be afraid to do justice to this subject because they may have some votes. I trust no such considerations can influence us. We have assembled under different auspices, and we ought not only to be firm, but in such cases as this we ought to be liberal. If the proposition comes before the Legislature you will have some such remark as this—it is familiar to every one who has watched this system. One man from some county, to whom a half dollar is a large sum of money, will say: Our best men are willing to work for two dollars a day, as good men as Judge A or B, and can't see why they should give A or B four or five dollars a day, while his neighbor gets but two. This is the kind of arguments some gentlemen carry into Legislative bodies. In the State of Ohio, this question of Judicial salaries has been brought frequently before the Legislature since the adoption of their new Constitution. The people have petitioned to have it changed, and their petitions were met by just such arguments as that, and it was found

that such gentlemen are in the majority. Where you once fix the salary it cannot be increased; and if you leave the whole question to the Legislature, without fixing the minimum below which they cannot go, they will go to that and never increase it. Hence the importance of fixing a minimum. It is said that the Judges years ago in other States—men learned in the law—accepted Judicial places at a salary of $1,000; but the expense of living then was not one-half what it is now. A man could stop at the best hotels then for seventy-five cents a day, but now it is two dollars in a new country. My experience is that the expense of living in a new country is higher than in older States and larger cities. I will venture the prediction that a man of family in Leavenworth cannot live upon a sum less than $1,500 a year. I take it that no man who is in practice worth $2,000 will relinquish its immediate emoluments and the prospect of an increase of that practice, for a position on the bench when [*83] the salary will barely support *him. It is important too that the reports should carry with them some superiority—they should be found in law libraries, and the decisions of Kansas Judges should be quoted as authority in the courts of all countries. This cannot be done unless we have a respectable Judiciary. It is important that these reports should be emanations from men of much learning and good lawyers, because they will be used as precedents—the decisions the judges first make will be regarded as law. No man can say, who is a citizen of this State, that he may not in some way be called before these courts either to defend his life, liberty or property; and it is, it seems to me, a matter of the utmost importance, that when such great questions are to be decided upon finally in a method from which there is no appeal, that we should have as parties who are to pass upon these questions, the ablest and best men in the Territory. Then any inducement to secure this kind of talent should be resorted to by this Convention in order to accomplish this end. I hope the Convention will meet this question in a spirit of candor, and look at it in all its bearings, and so it seems to me there can be no two opinions upon the subject. I ask gentlemen to come up to the question in this spirit of fairness, candor and truth, and do what they ought to do in relieving themselves from responsibility.

Mr. J. BLOOD. Mr. President, I propose to offer a substitute for the amendment of the gentleman from Atchison (Mr. Graham) as follows: "*Provided*, such compensation shall not be less than $1,500 annually." I did say that we had not proposed to fix the salary of judges at any particular sum, but desired to leave that to the Legislature. That does not seem to be satisfactory, and as a compromise I propose this substitute, which I think is fair. It is my opinion that if we fix the minimum at $2,000, it will create a great deal of dissatisfaction, and I fear it will endanger the adoption of the Constitution by the people. One gentleman has remarked that his constituents instructed him to provide for a small number of officers, but to give them a liberal salary. Now I proposed to reduce the number of judges to five for the present, but the Convention have decided to provide for the election of eight. The gentleman seems anxious to follow out the instructions of his constituents in the second particular, but neglects to obey their instructions in the first particular. For myself, I would have no serious objections to fixing the salary at $2,000, were I confident a large majority of the people would be satisfied with that sum, and I fear that it might endanger the adoption of the Constitution. For these reasons I offer this substitute as a compromise.

Mr. BLUNT. Mr. President, I desire to say a few words on this sub-

ject. I hope the amendment will not prevail, but that this Convention will agree to the amendment fixing the minimum salary at $2,000. I think this is a matter of considerable importance, although none of personal interest to me, it may be to some gentlemen of the legal profession upon this floor. I have no interest in this subject but that in common with other citizens of the Territory. From the arguments advanced here by gentlemen who oppose the amendment of the gentleman from Atchison (Mr. Graham) it seems that a fit of economy has come over them, and they are fearful of inserting in the Constitution, as the minimum salary of judges $2,000, for fear, perchance, the people will reject the Constitution. Now, I cannot speak for the whole Territory or any considerable portion of it, but from the little knowledge I have of the people, I take it for granted they are pretty sensible people, and fully appreciate the impor- [*84] tance of this question—that they ap*preciate the importance of securing good legal talent on the bench, and do not wish to avail themselves of that talent without giving an equivalent in the way of a liberal compensation. If it is upon the point of economy and retrenchment that we are to rule down to $1,500 as the minimum, I will suggest that, in lieu thereof, we amend the section we passed yesterday, which gives to members of the Legislature three dollars a day, and insert two dollars a day. Take it from members of the Legislature and give it to the judges of the supreme and district courts. I am convinced you can secure, at two dollars a day, persons better qualified to represent the counties in the Legislature, than you can secure good legal talent upon the bench at $2,000. Perhaps I should not feel so much interest in this question, had I not seen the low salary principle in Ohio, where the whole thing is left to the Legislature. Since the adoption of the Constitution of 1850-'51, the salaries have been so fixed. I think the first time it was fixed at $1,200; that was found to be insufficient, and it was raised to $1,500; and I believe since to $1,800. That fails to secure good legal talent in the State of Ohio, from the fact that no person is competent to sit upon the bench but what makes, from his profession, more than double that amount. Judges cannot live without eating and being clothed, and providing the same for their families. I was told by one judge who resigned, that he was forced to do so on account of the insufficiency of the salary, and go back to the practice of law. I know that thing has occurred time and again; so that it is seldom they can secure the services of a judge for more than one year at a time. The office goes a-begging. No one can accept the office unless he accepts it merely for the honor, and has an ample fortune sufficient to fall back upon. I believe if this question is properly presented to the people—the importance of securing upon the bench men qualified to be entrusted with our personal interests, with our lives and liberty—they will be satisfied to have fixed in the Constitution the minimum salary at $2,000. I am opposed to leaving this matter to the uncertainty of the Legislature. If the Legislature see proper to increase the salary to $3,000, I have no objection, and, indeed, think it would be proper to do so. I hope the Convention will view the matter in that light which the importance of the subject demands, and accept of the amendment proposed by the gentleman from Atchison.

Mr. J. BLOOD. For the purpose of testing the sense of the Convention upon the amendment of the gentleman from Atchison, I withdraw my motion.

Mr. THACHER. Mr. President, I move to lay the amendment of the gentleman from Atchison on the table.

The yeas and nays were demanded, and being ordered and taken, resulted—yeas 31, nays 18—as follows:

YEAS—Messrs. Arthur, Burnett, Barton, J. Blood, N. C. Blood, Crocker, Dutton, Griffith, Hubbard, Hutchinson, Hanway, Hoffman, Houston, Kingman, Lillie, Lamb, Middleton, May, Moore, McCune, McCullough, Preston, Palmer, Ritchie, Signor, Stokes, Thacher, Townsend, J. Wright, T. S. Wright, Williams—31.

NAYS—Messrs. Blunt, Brown, Burris, Foster, Forman, Graham, Hipple, Ingalls, McDowell, McClelland, Parks, Porter, Ross, Slough, Stinson, Stiarwalt, Simpson, Wrigley—18.

So the Convention refused to lay the amendment on the table.

Mr. BURRIS. Mr. President, I now renew my substitute, as follows: "Justices of the supreme court and judges shall receive such compensation as may be provided by law."

Mr. SLOUGH. Mr. President, I move to amend the section by striking out the words "and not more than $2,000."

Mr. HUTCHINSON. I move to lay the substitute and amendment on the table.

[*85] *The motion was lost on a division—affirmative 18, negative 22.

Mr. BURRIS. I accept the amendment of the gentleman from Leavenworth (Mr. Slough).

The substitute was adopted, and then the section, as amended, was adopted.

Mr. J. BLOOD. Mr. President, I propose to offer an additional section, to be numbered section 15. It is as follows:

"SEC. 15. The Legislature shall impose a tax on all civil suits commenced or prosecuted in the district and all inferior courts, which shall constitute a fund to be applied toward the payment of the salary of judges."

Mr. J. BLOOD. Mr. President, I believe that if the people choose to go to law, the parties themselves should pay the costs of the suit, and the people should not be taxed to pay the salary of judges. That policy has been adopted in some of the States, and in my opinion it is a good one. I offer it to get the sense of the Convention.

Mr. STINSON. Mr. President, this is a new theory. I always understood that it was one of the first provisions as well as the duty of a government, to administer justice voluntarily between its citizens. I did not know that a court should be self-sustaining. I know of but one State—the State of Wisconsin—where a one dollar State tax is imposed upon every suit; and that tax is generally, I think, covered up in some way, probably in the clerk's office, before it arrives at the State Treasurer's office. I suppose it will cost the State two dollars for every one it gets. I move to lay the section on the table.

The motion was agreed to.

Mr. SLOUGH. Mr. President, before we leave section 14, I desire to amend its phraseology. The intention was to make the compensation $1,500 to each judge. I suppose the Convention will consent to the correction. I desire to add the words "each year to each justice or judge thereof."

A voice. I suggest "per year."

Mr. SLOUGH. I like "each" better. That is English.

It was agreed to by consent.

Sec. 15 was read.

Mr. McDOWELL. Mr. President, I move to amend after the words "judicial districts" by inserting the words "and supreme justices."

On motion by Mr. STINSON, the amendment was laid on the table.

Mr. TOWNSEND. Mr. President, I would ask the meaning of the words "compact territory."

The PRESIDENT. The matter is entirely with the Convention.

Mr. SLOUGH. I suppose it means territory lying adjacent, contiguous, lying together.

The sec. 15 was adopted.

Sections 17 and 18 were read and adopted.

Mr. BURRIS. Mr. President, I move that the further consideration of this report be postponed till to-morrow.

The motion was rejected on a division—affirmative 17, negative 22.

Sec. 19 was read.

Mr. BLUNT. Mr. President, I move to amend by striking Douglas county from the fourth, and putting her in the first district.

Mr. STINSON. I move to lay the motion on the table.

This motion was agreed to upon a division—affirmative 26, negative 7.

The sec. 19 was adopted.

Sec. 20 was read and adopted.

Sec. 21 was read.

Mr. RITCHIE. Mr. President, I move to amend by striking out the words "by the bar."

It was laid on the table.

Mr. HUTCHINSON. Mr. President, I wish to change the last line. As it now reads, "if the judge is absent in any single case at the hour the court shall be called, if it be the judgment of the bar, they can appoint [*86] any *person in his place, whether of the district or not. In all probability they would appoint—

The PRESIDENT. The gentleman is out of order, unless he wishes to offer an amendment.

Mr. HUTCHINSON. I move to strike out the words "in any case," and insert the words "at the regular term." I am not strenuous about it, however, since every member of the bar here is so disposed to carry the point. I think it is giving them too much discretion to allow them to appoint those of their own profession to preside in cases where they may be already feed. I should think there ought to be a barrier made against any such person serving in that capacity. I do not think it should be left so open as it now stands.

On motion by Mr. STINSON, this motion was laid on the table.

Sec. 21 was then adopted.

Mr. McDOWELL. Mr. President, I move to refer this report to the committee on phraseology and arrangement, and that it be printed.

The motion was agreed to.

EDUCATION.

Mr. GREER. The article on the preamble and bill of rights is printed and on our tables.

The PRESIDENT. A special order for this day is a report from the committee on education.

Mr. THACHER. I move that we go into committee of the whole on that report.

The motion was agreed to.

The Convention accordingly resolved itself into a committee of the whole, Mr. McDowell in the chair, and took up the consideration of the report of the committee on education.

Mr. SLOUGH moved that it be taken up section by section.

It was agreed to.

Mr. HUTCHINSON. Mr. President, I would like to enquire of the chairman of this committee, for I have not read this report through, whether there is a provision made for a superintendent of the school fund.

Mr. GRIFFITH said he was not aware that the committee on education had made their report to the Convention, as yet. To be sure, it was printed and had been laid upon the desks of members, but it had not been formally presented to the Convention.

On motion by Mr. SLOUGH, the committee rose, and through their chairman reported that they had been considering the article on education, which was improperly before them.

The PRESIDENT. I would enquire of the Secretary whether the records show that the report has been made to the Convention? (The Secretary answers aside). The Secretary says the records do not show any such report. The chair remembers that this report was made a special order for to-day.

Mr. SLOUGH. My recollection is different.

WOMAN'S RIGHTS.

Mr. KINGMAN. The committee on the judiciary, in connection with the committee on elective franchise, to whom was referred petitions of certain citizens in Douglas and Shawnee counties, protesting against the constitutional difference made between the sexes, makes the following report:

The committee on the judiciary, to whom, in connection with the committee on elective franchise, was referred the petition of sundry citizens of Kansas "protesting against any constitutional distinctions based on difference of sex," have had the same under consideration, and beg leave to make the following report: Your committee concede the point in the petition upon which the right is claimed "that the women of the State have, individually, an evident common interest with its men in the protection of life, liberty, property and intelligent culture;" and is not disposed to deny that sex "involves them in greater and more complicated responsibilities." But the committee are compelled to dissent from the conclusion of petitioners. They think the rights of women are safe in present hands—the proof that they are so, is found in the growing disposi-
[*87] tion on the part of different Legislatures to extend and pro*tect the rights of property, and in the enlightened, progressive spirit of the age, which acts quietly but efficiently upon the legislation of the day. Such rights as are natural are now enjoyed as fully by women as men. Such rights and duties as are merely political in their character, they should be relieved from, that they may have more time to attend to those "greater and more complicated responsibilities" which, petitioners claim and your committee admits, devolve upon women.

The theological view of this question, your committee will not consider.

All of which is respectfully submitted.

SAM'L A. KINGMAN, SAM. A. STINSON,
JOHN J. BURRIS, J. P. GREER,
GEO. H. LILLIE, P. S. PARKS,
JNO. P. SLOUGH, BENJ. WRIGLEY,
J. G. BLUNT.

EDUCATION.

On motion of Mr. SLOUGH, the report was ordered to be placed on file.

Mr. SLOUGH. Mr. President, in view of the fact that we have what purports to be the reports of several committees printed and lying upon our tables before us, I move that these committees be called upon to report. I move that the committee on Preamble and Bill of Rights and the committee on Education be called upon to report.

The motion was agreed to.

Mr. GRIFFITH. Mr. President, in behalf of the committee on Education, I am directed to make the following report:

"SEC. 1. The General Assembly shall provide for the election, by the people, of a State Superintendent of Public Instruction, who shall hold his office for two years, and who shall have the general supervision of the common school funds and educational interests of the State, and shall perform such other duties as shall be provided by law. County Superintendents of Public Instruction shall also be elected in each county, whose term of office shall hold two years, and whose duties and compensation shall be prescribed by law.

2. The General Assembly shall encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of common schools and other schools of a higher grade, embracing Normal, Preparatory, Collegiate and University Departments, which schools shall be open for the admission of pupils of both sexes.

3. The proceeds of all lands that have been, or may hereafter be granted by the United States to this State, for the support of schools, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of the public lands among the several States of the Union, approved A. D. 1841, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may be granted by Congress on the sale of lands in this State shall be the common property of the State, and shall be and remain a perpetual school fund which shall not be diminished, but the interest of which, together with the rents of the lands, and such other means as the General Assembly may provide, by tax or otherwise, shall be inviolably appropriated to the support of common schools.

4. The income of the State school funds, together with any funds raised in any other manner for school purposes, shall be disbursed annually by order of the State Superintendent to the several County Treasurers, and thence to the Treasurer of the several school districts in equitable proportion to the number of children and youth resident therein, between the ages of five and twenty-one years; *Provided*, that no school district shall be entitled to receive any portion of the income thus arising which shall not have kept up and supported a school at least three months in each year. [*88] 5. The school lands shall not be sold unless *such sale shall be authorized by a vote of the people at an election authorized by law, but

subject to revaluation every five years, they may be leased in any number of years not exceeding twenty-five, at a per centum established by law.

6. The money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of estrays, ownership of which shall vest in the taker-up, and the proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied in the several counties in which the money is paid or fines collected, to the support of common schools, to be apportioned among the districts as may be prescribed by law.

7. Provisions shall be made by law for the establishment of a State University, for the promotion of literature, the arts and sciences, including a Normal and Agricultural department, to be located at some eligible and central point. The funds that may arise from the rents or sale of the lands that may be granted by the United States to the State for the support of a State University, and any other grants, donations or bequests which shall be made, either by the State or by individuals, for such purpose, shall be and remain a perpetual fund, to be called the "University Fund"; the interest of which shall be appropriated to the support of the State University.

8. No religious sect or sects shall ever have any right to or control of any part of the common school funds or University funds of this State.

9. The children of African descent shall be entitled to an equitable proportion of the common school funds of the State, and the Legislature shall make suitable provision for their education.

PUBLIC INSTITUTIONS.

1. Institutions for the benefit of the insane, blind and deaf and dumb, and such other benevolent institutions as the public good may require, shall always be fostered and supported by the State, and be subject to such regulations as may be prescribed by law.

2. The directors of the Penitentiary shall be appointed or elected in such manner as the general assembly may direct, and the Trustees of such benevolent institutions as may be hereafter created, shall be appointed by the Governor, by and with the advice and consent of the Senate, and upon all nominations made by the Governor, the question shall be taken by yeas and nays, and entered upon the journals of the Senate.

3. The Governor shall have power to fill all vacancies that may occur in the offices aforesaid until the next session of the General Assembly and until a successor to his appointee shall be confirmed and qualified.

4. The respective counties of the State shall provide in some suitable manner for those inhabitants who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society, under provision to be made by the General Assembly.

Mr. SLOUGH. I move we dispense with the reading of the report, and that we go into Committee of the Whole on the subject.

Mr. THACHER. The Convention ordered a report from another committee. I suggest the gentleman withdraw his motion till we hear from their chairman.

Mr. SLOUGH. I withdraw my motion.

Mr. HUTCHINSON. As chairman of the committee on Preamble and Bill of Rights, I ask for further time.

The PRESIDENT. Unless objection is made, further time will be granted.

Mr. SLOUGH. I now renew my motion to go into Committee of the Whole on the report of the committee on Education.

The motion was agreed to, and the Convention resolved itself into Committee of the Whole—Mr. McDowell in the Chair, and took up the Education article.

[*89] *On motion by Mr. MCCLELLAND the report was taken up section by section.

Section 1 was read.

On Mr. KINGMAN's motion the words "shall hold two years" were made to read "shall be two years."

And so the section was adopted.

Section 2 was read.

Mr. BURNETT. Mr. Chairman, I move to strike out the words "General Assembly" and insert the word "Legislature."

The CHAIRMAN. By consent the same amendment will be made in the first section.

Mr. WRIGLEY. I move to amend by inserting after the word "of" and before "pupils" the word "white."

Mr. BURNETT. I move to amend by inserting the word "copper colored."

These motions were laid on the table on a division—affirmative 22, negative 17.

The section was then adopted.

Mr. LILLIE. It seems to me that last line does not read right.

Section 3 was read.

The CHAIRMAN. The chair would suggest that the words "General Assembly" occur in this section. If there is no objection the Secretary is authorized to make it "Legislature."

Section 3 was then adopted.

Section 4 was read.

Mr. GRIFFITH. I would suggest an amendment after the word "arising," making it read "in which there shall not have been kept," &c. The operation of this would be to leave it in the power of a certain number of individuals to raise a school where the district should refuse to act.

Mr. KINGMAN. I will agree if you will put the word "common" before the word "schools."

Mr. GRIFFITH. I have no objection to that. The committee overlooked that thing. It is possible that one-third of the inhabitants of a district would be in favor and two-thirds against, this one-third then could go forward, open a school, and be entitled to receive their proportion of the fund.

The amendment was agreed to by consent, and section 4 adopted.

Section 5 was read and adopted.

Section 6 was read and adopted.

Section 7 was read.

Mr. GREER. I move that this section be stricken out.

Mr. THACHER. Mr. Chairman, I would like to hear a reason for so doing.

Mr. GREER. One reason is that I am opposed to State Universities. I think institutions of learning ought to be left to individual or private

enterprise. State Universities are often the subject of acrimonious controversy between several portions of States; and as a general thing result in no particular good.

Mr. GRIFFITH. Mr. Chairman, I am one of those who believe that the establishment of a State University would be a matter of great importance to the future State of Kansas; but I am opposed to the establishment of more than one. I believe that the interests of our future State require that we should build up one magnificent college that shall not only give instructions in the arts and sciences, but that shall have an agricultural department where our sons may receive a thorough agricultural education. I believe the wants of community demand such an institution. Let us in the beginning make a fundamental provision that we may establish such an institution; so that if it should be thought necessary the Legislature can have the power to do so. The Congress of the United States will be likely to confer some magnificent land grants for this purpose upon the States and Territories; and if so, let us use our part as we ought. I do not propose to make an argument upon this matter. I presume, sir, there is little difference of opinion upon this subject. I do not believe gentlemen can bring objections sufficient to influence this Conven-
[*90] tion to reject *this section. If I thought so, I should feel disposed to enter into the discussion, and adduce reasons why we should adopt this provision.

The motion was rejected.

Mr. FORMAN. I move to strike out of the first line the word "shall" and insert "may."

Mr. HOUSTON. Mr. Chairman, in striking out that word you don't make it obligatory upon the Legislature to take action in the premises—they may or they may not. I do not know that I am very anxious for the establishment of a State University—as they have generally been conducted. But there is one branch that this Convention ought not to pass over. I refer to an Agricultural branch. I hope gentlemen will take some positive position in regard to an Agricultural College or Institution of Learning. What are the facts? We have a vast extent of country extending north and south—a country that is high and rolling. On the west our country for many years to come will be extending, and is now some three or four hundred miles wide. This portion of the country is extremely dry, and the properties of that soil have never been tested. It does seem to me that it would pay well to place in that district an agricultural branch that would give the highest possible development of that soil. I live directly west of here. When I went there it was my conviction that a large portion of that country would be worthless, but I have changed my opinion from practical experience. I am convinced by peculiar circumstances that if an agricultural institution were located out there, it would give value to that country, and would enable us to sell a vast amount of land that will otherwise remain for one hundred years comparatively worthless to the State. I hope, gentlemen, you will consider the importance of taking some step that will thus enhance the value of one-half the land in Kansas.

Mr. GRIFFITH. I am not tenacious about it, but in my judgment either word is sufficient to give the Legislature power to act in the matter.

Mr. BLUNT. Mr. Chairman, I think the words "shall" and "may" admit of a different interpretation—have different meanings. I am in favor of the proposition to strike out "shall" and insert "may." As the

section now stands, it seems that it is obligatory on the Legislature to establish a University. I do not propose to speak of the utility of a State University. I think the matter should be left to the Legislature. I think the Legislature should not be made to act in the case. The word "may" leaves the question open. Without using any argument for or against, I shall vote for the proposition to strike out "shall" and insert "may."

The motion was rejected, on a division—aff. 16, neg. 17.

Mr. DUTTON moved that the words "shall be made" read "may be made."

Mr. GRIFFITH. I would suggest that the word "may" will not be proper language.

Mr. PREST. WINCHELL. I believe "may" is the proper word.

Mr. BLUNT. My opinion is, "may" would be more appropriate.

The motion was agreed to and Section 7 adopted.

Section 8 was read and adopted.

Section 9 was read.

Mr. STIARWALT. I move to strike out the whole section.

The motion was agreed to, on a division—aff. 26, neg. 6.

Mr. SLOUGH. I move a substitute for Section 9 as follows:

"SEC. 9. Mixed common schools, or universities for children of white blood and children of African descent shall not be permitted in this State."

The substitute was laid on the table—aff. 25, neg. 17.

Mr. J. BLOOD. Mr. Chairman, I propose the following substitute:

[*91] "SEC. 9. The State Superintendent of Public *Instruction, the Secretary of State and Attorney General shall constitute a Board of Commissioners for the management and sale of school and university lands, and for the investment of funds arising therefrom. Any two of said Commissioners shall constitute a quorum for the transaction of all business pertaining to the duties of their offices."

The substitute was adopted, and so that branch of the report was passed.

PUBLIC INSTITUTIONS.

The first paragraph in this branch of the report was read and adopted.

The second paragraph was read.

Mr. PRESIDENT WINCHELL. I move that the words "General Assembly" be changed to "Legislature."

The CHAIR. I suppose that will be done by common consent.

So the paragraph was adopted.

The third paragraph was read.

Mr. PRESIDENT WINCHELL. I would suggest the same correction.

THE CHAIR. If there is no objection, it will be made.

The paragraph was adopted.

The fourth paragraph was read.

Mr. PRESIDENT WINCHELL. I would suggest the same correction.

The CHAIR. It will be made unless objected to.

The paragraph was adopted.

Mr. BLUNT. I move that the Committee rise and report progress.

The motion was agreed to.

The Committee accordingly rose and reported back the article on Education with the foregoing amendments.

Mr. HIPPLE. Mr. President, I move that we take up the article and consider it section by section.

The motion was agreed to and section 1 was read.

Mr. N. C. BLOOD. I move that the words "General Assembly" be stricken out and "Legislature" inserted instead.

The PRESIDENT. If there is no objection, this correction will be made.

And so the section was passed.

Sec. 2 was read.

Mr. MCDOWELL. Mr. President, I move to amend by inserting after the words "admission of" the word "white," and ask the yeas and nays upon my amendment.

Mr. THACHER. I move to lay the amendment on the table.

The yeas and nays were ordered and demanded, and being taken, resulted —yeas 26, nays 25—as follows:

YEAS—Messrs. Burnett, Blunt, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hutchinson, Hanway, Ingalls, Lamb, Middleton, McCullough, Preston, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams, Mr. President—26.

NAYS—Messrs. Brown, Barton, Burris, Foster, Forman, Greer, Hipple, Hubbard, Houston, Kingman, Lillie, May, Moore, McDowell, McCune, McClelland, Palmer, Parks, Porter, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—25.

So the amendment was laid on the table.

Mr. STINSON. Mr. President, I move to add to the section the following words: "but no negro or mulatto pupils shall be admitted to such schools."

A voice. That is the same proposition that we just voted down.

The PRESIDENT. The Chair is under the necessity of ruling the motion as not identical, inasmuch as the other amendment would have excluded Indian children.

Mr. GRIFFITH. Mr. President, I desire the Legislature to be left to pass such laws upon this subject as they shall deem necessary. I hope gentlemen will not say that our Constitution shall discriminate upon the difference between persons. If we incorporate provisions that shall exclude any class, the time may not be far distant when we may wish we had not done [*92] so. If we leave it to public *sentiment, as expressed through the Legislature of the State, the people all can govern in this matter. My friends over the way profess to be popular sovereignty men. Let us leave this matter to the people then.

Mr. STINSON. Mr. President, we come from Leavenworth county representing a popular sovereignty constituency, whose will is in favor of excluding negroes from the common schools of Kansas, and we don't wish to let an opportunity go by without so expressing that sentiment. We would be unfaithful to our trust did we do so. We want a record upon this question, and we are as willing to take it upon a motion that takes it to the table as in any other way, but we want gentlemen to stand by that record before the people.

Mr. BURRIS. It is an old maxim that beggars should not be choosers. We are talking about a fund that may be given us by the general government. What claim has one class of men to the common benefits of this country above that of each and all classes? If any gentleman can point out any view or precedent that can be recognized in law or justice, we will yield the point. We must proceed upon the supposition that the blacks are to live in common with the whites. It is supposed that they are to mingle and live together with us. I ask if it is desirable to see that class of citizens growing up in entire ignorance? If they are to live in the Territory they should be made as intelligent and as moral as education can make them. With these considerations I am willing to vote.

Mr. KINGMAN. Mr. President, I propose that our friends shall have a fair opportunity, and hope no one will prevent them from speaking till night if they want to, and then have a fair vote. I have no doubt but that we shall vote to lay the amendment on the table, to expedite business, more than from fear to have a record. What will it change, to which gentlemen will so exclusively point? I am not particular how the record stands.

Upon this question I have an opinion of my own. I will let my children associate neither with those of the gentleman from Leavenworth nor with those of the gentleman from Africa. If he is so fearful that his children will be contaminated, let him provide for them as I do for mine. I know that this whole thing is for a record; and I intend to see exactly how this record will read when it is done. No vote has been taken yet that I don't know what it is worth. I intend to face the music fairly before my constituents, and they are not particularly a negro-loving race of people—some of them are not very strong negro haters, and I am one of that class. I deny all prejudice against the race. If I could not rise above such a feeling—could not protect myself against a few negroes, without provisions of law heaped and crowded into every page of the Statutes—if I could not hold my position socially and politically without such constitutional restrictions, I would just leave Kansas and go where majorities rule. I have no hesitancy in saying that if ever a negro family should come into my neighborhood, I should immediately object to their attending school with the children of my neighbors—and I believe that neighborhood could protect itself. The law does not say they shall ever go to school. It leaves it for the people from time to time to regulate. But more than all, and beyond all, and above all, it does not say that those who choose to go to school with negroes shall not do so. It seems that the gentleman from Leavenworth is not willing that those who want to associate with the negro shall do so. He would declare that they shall not go to school together whether the school be supported by the common school fund or by voluntary contribution. He is anxious to make a record! I know what it is to make a record; and I know what kind of a tune to play that will vote it down.

Mr. BLUNT. Mr. President, I am opposed to loading down every pro- [*93] vision of our Constitu*tion with the subject of negroes. I am aware that this is to come before us in some other departments of this Constitution, when it will bring about considerable discussion. When the time comes I expect to meet it, and shrink no responsibility; but I am opposed to having the negro thrust upon us at every step as we advance. I am also opposed to incorporating in this Constitution a provision which shall prohibit the education of negroes if they so prefer. Society will regulate itself. We don't know what will be the peculiar views of the

people of Kansas upon this subject before there will be a change of the organic law. There may be a progress made by which the prejudices which involve and surround this question of the admission of negroes or mulattoes to our common schools may be laid aside; and then the Legislature could provide for the education of persons of color. They might have the benefit of our educational system, provided this black law does not pass; but if it does, and they are excluded, why, then we will need no such provision. As far as I am concerned, I do not need anything to protect me from the embraces of a negro. If our democratic friends over the way need some legislation to protect them from mixing up and associating with the negro, I am willing they should have it, but they can't have it with my vote here. I propose to leave this question entirely open to the Legislature, that society may regulate itself in this respect, and not bar the Legislature from providing for the education of blacks, in case we have them among us. When this question comes up here, I propose that they shall face the music and take the pure white—none of your mulattoes or copper skins. We will then test their sincerity.

Mr. SLOUGH. Mr. President, gentlemen upon this floor need not undertake to shield themselves from the position they have assumed, by throwing ridicule at the minority upon this floor, for I tell them the people of this Territory and the people of the State will hold them responsible for what they are now doing. I believe the sentiment of this people is in favor of the position of the minority here. I am desirous that we should get an admission into the Union, and thus get rid of all complaints as soon as we come into the confederacy. I fear if this section is not incorporated the people will repudiate the result of our labors, and those instrumental in betraying the trusts imposed upon us. The position assumed by gentlemen is, that we have the right of self-protection. Now, if they do not incorporate this provision in the section under consideration, gentlemen will find to their sorrow that they have much mistaken their premises. The negroes, claiming their rights under this Constitution, will sue in the courts for their rights, and the courts cannot avoid them. Not even a Dred Scott decision would save them. What is the language of the section? "The Legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of Common Schools, and other schools of a higher grade, embracing Normal, Preparatory, Collegiate and University Departments, which schools shall be open for the admission of pupils of both sexes." You might as well add in as many words, "and of all colors." Unless you exclude those, you incorporate all. It may be gentlemen have been raised with different prejudices from those I possess, and with different ideas; but for me, sir, I shall never consent, by my vote, or by any action of mine, that those upon whom Nature's God has stamped inferiority, shall ever associate with my children in our common schools, which I hope to assist in supporting. I am not opposed to the education of the blacks. As far as they are capable of elevation, I am in favor of according it to them; and upon that I have made a record, that (in Ohio) perhaps no other man here has had an opportunity of making—that whatever they contribute [*94] to the support of Government may *be used to educate their children. And I would go further and say they may have the control of that fund; but I am not willing to contribute for their education. I am opposed to the introduction of mixed races in our common schools; and if we authorize it I believe the result will be that the people will repudiate the Constitution which is to be the result of our labors here. I believe that

our people, nine to one, would favor the introduction to the amendment proposed. But, Mr. President, I did not expect this matter would come up at this time. I am opposed to making long speeches, and I will content myself with standing by the position I have assumed.

Mr. MCDOWELL. Mr. President, I feel that I owe to my constituents, upon this floor, a solemn duty that I more readily perform, as their instructions correspond with my own inclinations and feelings. I regard this negro question as the only question of interest that was presented in the late canvass. That the future State of Kansas should be free, was conceded by all parties in this Territory; and whilst that was conceded, it was expected that this Convention would incorporate into the Constitution an article excluding the immigration of negroes into the State. The provision that my colleague (Mr. Stinson) submitted for the consideration of this Convention, is necessary to be engrafted here, notwithstanding we may not be able to carry the proposition of exclusion. We do not propose to exclude the negroes now in the Territory. If we do exclude others from coming here, it is proper for us to have a clause preventing the negroes having the benefit of our common schools.

I know my friend from Brown (Mr. Kingman), and I like to hear him speak. He is largely gifted with the power "to make the worse appear the better reason." He is also acquainted with, and has a quick and keen perception of, the ridiculous; and he attempts to laugh out this question, so important to the future generations in Kansas. Sir, whilst I admit the magnitude of his powers in that way, this question rises superior to such attacks. We must not dodge it nor shirk it. In justice to our constituents we cannot do either.

I believe the latitude usually allowed, may permit one to digress from the particular point in issue. Geographically we are situated upon the margin of the slave states, that are gradually emancipating their slaves, and, very naturally, this Territory becomes the receptacle of their free negroes. Now, I propose to make this not only a free State, but a free white State. We do not propose that this State shall be the receptacle of free negroes and runaway slaves. The continual strife upon that subject —the recurrence of these distracting questions, have more than anything else tended to prevent our admission into the Union, and to blight the prosperity of the State. We propose to nip this evil in the bud. We stand upon the record as believing that God Almighty, for some high purpose, has established this inferiority of the black race, and stamped an indelible mark upon them. Between the two races there is an unfathomable gulf that cannot be bridged. If there are communities who believe they are no better, we submit them to their tender mercies. We believe the two races can never become homogeneous. All propositions of social equality only tend to complicate this question, and hang round it questions that tend to produce excitement; and we propose to cut it off now, at once and forever. My constituents have spoken out upon this question, and I stand up here to vindicate their claims in this behalf, and their position is my position. It is idle to talk about the two races becoming common, or about extending social privileges. They are not, by their constitution, our equals. We cannot legislate them up to our standard. I propose to pre- [*95] vent the agitation of the question, by exclud*ing them entirely. The black race should not be allowed to live in this Territory, as we do not propose to have slavery in the new State of Kansas. Now is the time for us to act upon this question. It will not do to leave the question to the Legislature, for, as we advance, this question becomes more complicated. Now is the time, whilst there are few in the Territory. There are no legal ob-

jections to this course. In the Dred Scott case it was claimed that, since they were made citizens in some States, it was a violation of one of the principles of the Constitution of the United States for any State to deny them those rights which are allowed to citizens of other States. The Dred Scott case has determined that, while State laws may make these people citizens, they are not so in the intention of the Constitution of the United States. The only question, then, is one of expediency. I appeal to members of the Convention—men who have come here to make an organic law for a growing and great people—to look at this question in the light of statesmanship, and have their action guided by that high authority, which, seeing the impossibility of the races becoming homogeneous, demands their exclusion from our future State.

Mr. THACHER. Mr. President, another dark act in the blended drama and tragedy of Kansas history is passing before us. A few years since, the magnificent Territory whose supreme law we are assembled to frame, was unpeopled and untouched by civilized man. Around it, upon every side, stood the vigilant sentinels of freedom, guarding this splendid domain as the inheritance of free men and free institutions. A holy and thrice hallowed compact pledged all this beautiful land to liberty. But over the barrier which protected it, past the sentinels which guarded it, the slave power, with lustful eye, looked, and planned to strike down those sentinels, tear down that sacred barrier, and sweep over the object of their care with an institution that blights and destroys all that falls beneath its influence.

That power found a willing and serviceable ally in the Democratic party. Away went the Missouri compact, with its sacred restrictions, and this Territory became the arena of a fierce conflict between the two opposing influences, not only of this confederacy, but of the world. Upon the one side was the Democratic party, having in possession every department of the government, struggling by every means in its power to fasten the odious and hated system of slavery upon Kansas. It was met, on the other side, by the bold hearts and stout arms of a free people. That heroic people, after enduring untold sufferings, finally triumphed over their foe and trampled the loathed and abhorred institution into the dust.

The scheme of making Kansas a slave State is abandoned by the Democracy. But, with the true blood-thirstiness of slave-hounds, that party seeks to wreak the chagrin and mortification of its signal defeat upon the poor, helpless and unprotected race it sought to chattelize and imbrute. As the hoary inquisitor, when Bonaparte wrenched off the gates of the Bastile and bid the immured victims of bigotry and torture be free, followed the objects of his cruelty with imprecations and bitter curses, so do these high priests of oppression follow the crushed and down-trodden objects of their hate into the open air of liberty. With impotent malignity they seek to visit upon the beings they were balked in enslaving horrible revenge, as satisfaction for their defeat. No longer able to bind fetters upon the limb of the slave—no longer able to scourge and flay his back, they now seek to subject him to cruel distinctions and abhorred impositions, and thereby gratify the malice and cruelty which the system of human bondage ever inspires.

And yet this is the party that prates to us about the immutable principles of justice and innocence! This is the party that brushes aside reason, justice and truth, to howl at their opponents "fanaticism!" Oh! sir, I tell [*96] *you there is no fanaticism so wicked and cruel as the fanaticism of crime! There is no fanaticism so brutalizing, so dehumanizing in all its features and characteristics, as the fanaticism of oppression.

In the discussion of this question—and discussion has wandered far—it has been hissed at us by Democrats that the Republican party is an "amalgamation, a negro-equality party." And this charge comes from a party sustaining and propagating a system whose basis rests upon prostitution and concubinage more loathsome and degrading than any that can be found in the wide world. Mark the universal *bleaching* out of the colored race in the South, and remember that in that region the Democracy hold undisputed sway. There are there ten slaves to-day with Anglo-Saxon blood coursing their veins, to one pure African.

Why, sir, the system of slavery, in its practical working, is a constant intercourse between the races. Negro equality! there are men among you who shriek this cry, who first saw the light in the arms of a negro nurse, and from her breast drew the milk of infancy. Let such men never raise a babble so insane and so reflective upon their own history!

What is the proposition gentlemen submit to us? It is to insert in our Constitution a dark and forbidding feature, utterly opposed and repugnant to true Republicanism. They tell us, by implication, that unless the Constitution of a free and glorious State mar its beauty with a provision protecting the children of these gentlemen, they will mingle with and become the companions of negro children. Well, sir, I suppose these gentlemen, on the principle that "birds of a feather flock together," may feel the necessity of this provision, but I do insist that the same necessity does not prevail everywhere. I believe the great majority of the children of this country do not need any such barrier of law to separate them socially from those of a crushed race. It is hard to see or understand why one thousand white children need a provision of law to keep them from mingling with ten colored children. Though I am not disposed to deny that Democrats may feel the want of such a safeguard, I submit that the children of the vast majority of the people are not so negro-tending or affiliating.

I utterly protest against any such feature being made part and parcel of this Constitution. Over the school fund and its distribution, the Legislature have complete and sovereign control. The only object gentlemen can have in putting into this instrument any distinct provision on this subject, is to make the Constitution as hated and odious as possible. The whole thing came out the other day, when a distinguished Democrat on this floor proposed to procrastinate for one year the freedom-clause of this Constitution. The endorsement of that proposition only proved that the Democracy is the same now as in the bloody days of '55 and '56; and that it now desires to frame a Constitution so repulsive that the people will vote it down. It must be for this purpose that these inhuman propositions are made. Probably there will not be for years in Kansas one person of African lineage, near or remote, to a thousand of white descent; and yet we are met almost hourly by proposals to protect this thousand from the one, and this, too, by gentlemen who have run with slaves and been their companions for years!

This whole thing is nothing but an attempt to make party capital out of prejudices. These men cannot *care* for this thing—it is only a trick to make political gammon out of. I trust the Convention will lend an indifferent ear to this wicked clamor. A provision which sends forth our Constitution blackened and charred, which no devotion to freedom can efface, is one I do not wish to see.

A convention of slaveholders in Maryland has just been held, to see whether any steps should be taken with regard to the free colored [*97] *population. What did that convention do? Before adjourning

it pronounced, in most unmistakable terms, against the exclusion of that class of persons. That convention passed the highest encomium upon that class, and declared those persons a source of great wealth and profit to the State. Shall we be less men than slaveholders? Shall we exhibit more despotic hate than they? I am not arguing for the colored man—I am protesting against inhumanity.

Gentlemen, I trust this proposition comes not from your hearts. Let me believe, rather, it is your eagerness, in your forlorn condition, to make party capital, that forces you to take this wicked shift. For the sake of our common humanity, I hope this is so. It is an odious and wicked provision, hardly found in the Constitution of the worst slave-holding State in the Union; surely you do not wish to engraft it upon ours.

What meaning would there be in our great struggle for liberty, what lesson would it teach to the world, were we to close the fearful conflict by an act as tyrannical and unnecessary as this?

Shall Kansas, which has just come out of such an alembic of persecution and suffering, with her garments yet crimsoned with the blood of her martyred sons, and her soil yet blackened with the embers of her burned homes, frame a Constitution that does not glow and radiate in every line and syllable with the glad light of liberty and freedom to all? For the sake of the Great Father of us all, who loves purity and hates oppression, let me hope that this fundamental law of our land will be true to humanity and true to God.

Mr. RITCHIE. Mr. President, I am not able to do this subject the justice that my heart would prompt. A few days ago, in this hall, I praised the doctrine laid down by my friends on the other side of the house, and I have reason to believe yet, from the high positions they have held at times, and what education has done for a part of them—those raised in the free State of Ohio—that they are not so radical at heart as they appear to be on the surface—that there is enough of that which is good to override the prejudices of the black democracy. It is capital they want! I am for capital, too; but capital that will not exclude the most humble individual, be he black, copper-colored, black republican or black democrat. My aspirations are higher than mere party considerations. Let us examine and see whether any party can be elevated by taking the position that they take. I believe that it is generally conceded that a black man is part of the human creation. If there is a Democrat so far down in the scale of humanity here, that he does not believe this, I would like to hear an indication of it, or see it by the holding up of a finger. The only question is whether that humble individual shall be the subject of education. I hold it to be true, that our government is to protect the weak vessels instead of the strong. If it were not for that I would not stand before you on this occasion, as I come from a constituency that I believe only have some half dozen blacks in the whole county. I understand the party lines are to be drawn upon this issue. Now I do not pretend to hold the republican party accountable for anything I may say. I say they are divided upon, not what is right, but what is expedient. Both parties agree in the great, God-given rights which every man possesses. I would be for leaving any party that assumes the position that we must be kept pure and holy, and exclude others of the human family. Take that before the people! The party that does it will be in a miserable minority. But I wish to show you, without any feeling—I have felt—yet I hope what I do may be [done] in a spirit of forbearance and forgiveness. Nothing is to be accomplished here but by

reason. If I manifest any feeling, independent of this, I hope the Convention will attribute it to proper sources. I am not disposed to take any advantage of feeling. Four years ago, the slavery men asserted, not only the exclusion of blacks, but that any man that would get up and talk as I am talking to-day, was to be excluded from the Territory. This was the last remaining link of slavery. But we have stood up against all the powers that have been arrayed against us; and now there is not a party that would take it upon themselves to attempt to rid this Territory of that class of human beings. Therefore, a necessity arises for a class who will say that they shall be protected by education. Gentlemen assert here [*98] that they are of a superior race. *This body is sufficiently intelligent to know that it is easy to make assertions; but there is no evidence adduced to show that they excel Mr. Douglass—even the black man Douglass. I desire to admit all that is fair in argument. When gentlemen assert they are superior, I hope they will show this body wherein they excel Douglass the darkey. Now, my friends, I am from a country [state?] where this negro prejudice prevails to some extent. Large handbills were once circulated, that a negro stealer had put up at a certain place, and by him I was set down as all that was horrible and monstrous. The black man and the slavery propagandist both alike have called at my door, and both alike have eaten of bread procured by these hands. And, gentlemen of the Democratic party, you are invited to call at that door, and see whether it will be closed even against you. After suffering for four years in defence of my own liberty and that of my wife and children, I think it is too late in the day to be scared at the howls of the Leavenworth delegation. I hope this negro question will be met, and we will go home united to put down this opposition to education throughout the land.

Mr. GRIFFITH. Mr. President, I suggest that no discussion will change any person's mind. I am willing to give the Legislature complete control over this matter.

A motion to adjourn was made and rejected.

Mr. HOUSTON. I wish simply to define my position—not to make a speech. I regret the peculiar shape of this discussion, and the form it has assumed. I think we have a duty to perform, and the simple placing of ourselves upon the record is poor satisfaction. The 9th section, which was stricken out, I had hoped would be incorporated. I will read it:

"SEC. 9. The children of African descent shall be entitled to an equitable proportion of the common school funds of the State, and the Legislature shall make suitable provision for their education."

I intended to move to insert the word "separate" before the word "education"; and I will give my views. I am not legislating for the counties of Riley, Shawnee or Leavenworth, but for Kansas; and it is my opinion that the people are unwilling to have their children educated with the blacks. For that reason I would be willing to forego my position when we come to vote on the word "white." I wish them to have a portion of the school fund, but insist that they have separate schools. It seems to me that this discussion has assumed such a shape that we shall have to deed the States to black, and ourselves to the other side of the house. There is no man more radical upon many points than I, but there is no use for a man to step out in yonder stream and attempt to turn the current with his own power. When that prejudice which now is so universal shall be removed, I shall be willing that the State shall have a constitutional provision for the education of the children of both races in the same school. I under-

stand the second section includes every child in the State. It seems to me by a legitimate construction of the words used, it includes every single child black, white or Indian. Now if we are going to let them all come in—take broad ground—let us stand up to the mark, by giving them a portion of the public fund. I am in for that position.

Mr. LAMB. Mr. President, I have kept my seat on all occasions, perfectly willing to listen to older and wiser heads, but now I feel disposed to offer some thoughts. In the first place, I do not present myself here as an individual anything smart, or as having any education; I present myself here as a common citizen of Kansas, representing a portion of the Territory of Kansas. I have listened carefully to arguments presented upon both sides. If I understand what the disposition of a portion of this House is, they intend to exclude black men from the Territory. If they are to be excluded from Kansas why put a provision in the Constitution that their children shall not go to school in our Territory? I am in favor of leaving this matter to the Legislature to act upon. It has been represented here, that they are an inferior race—not equal to the whites. I admit they are an inferior race, but there is a cause for that inferiority. That cause has been developed here, upon this floor, this afternoon. The idea is to exclude them from the privileges of the common school fund of their country, and then turn round and say, you are an inferior race. I am in favor of referring this matter, whether the black man shall have the privilebe of coming into Kansas, to a direct vote of the people. I stand [*99] up*on the popular sovereignty question in relation to their children having a chance of getting an education. If they come into Kansas at all, let us give them an education. The very doctrine of trying to prevent them from having the advantages of common schools makes them an inferior race. Let the Leavenworth delegation petition the Legislature if they don't want their children to go to school with the blacks, and they can have different schools. It has been intimated that this thing shall go on record. No doubt the whole Territory will be canvassed in relation to the matter. Let it come, is all I have to say. I am a mechanic. I always work by the square, and I will represent my ideas in this way: There was a certain slaveholder I heard of, who sent out an old black man to haul hay, in place of which the old black man got to praying, and he prayed so loud that he scared the horses and caused them to run away. The master came out and walloped the man severely for it; but, upon seeing hmi bleeding from the stripes, began to sympathize with him—helped him to get the horses again and fix the gearings. And his master said to him: "Jack, there's no use in making so much noise about it. If you must pray and make a noise, wait till you are not at work." "Well, but master," says Jack, "I can't help it. When the spirit of the Lord comes over me, I can't help it." "Very well," says the master, "if you can't help it, hitch your horses or get somebody to hold them." "Well," says he, "master just you hold the horses, I feel so now." If the Democratic party get that way, let them hold their horses, if they want to make a noise.

The PRESIDENT. The hour of adjournment having arrived, the Convention stands adjourned till to-morrow morning, 9 o'clock.

And the Convention adjourned.

FRIDAY, July 15, 1859.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

The roll was called, and Messrs. Hutchinson and Perry reported absent.

CORRECTION OF THE JOURNAL.

The journal of yesterday was read by the Secretary.

Mr. MCCLELLAND. Mr. President, I notice in the proceedings of the forenoon there was an amendment proposed limiting the jurisdiction of justices of the peace to fifty dollars attributed to me. It was offered by the gentleman from Leavenworth (Mr. McDowell).

The PRESIDENT. The clerk will make the correction.

Mr. HOUSTON. Mr. President, I have a resolution to offer:

"*Resolved*, That Gen. Pomeroy and Mr. Keyser, editor of the *Junction Sentinel*, be invited to take seats within the bar."

The resolution was adopted.

RAILROADS.

Mr. CROCKER. Mr. President, I have a petition which I desire to present, and move its reference to the committee on ordinance.

(The petition is from certain citizens of the Territory in relation to railroads in Southern Kansas).

The motion was agreed to, and the petition was accordingly referred.

WOMAN'S RIGHTS.

Mr. RITCHIE presented several petitions from citizens of Douglas, Shawnee, Atchison and Wyandotte counties, protesting against any Constitutional monopoly, or pre-eminence of rights, based on sex; which were referred to the committee on the Legislative Department.

RAILROADS.

Mr. RITCHIE. Mr. President, I offer the following resolution:

"*Resolved*, That Col. George S. Parks and E. N. O. Clough, of Park-
[*100] ville, Mo., have the *use of the hall this evening to make Railroad speeches."

Mr. KINGMAN. Mr. President, I would like to hear the gentlemen, but to prepare the hall would require three or four hours work on the part of our officers; we shall probably sit till six, and that would not give them time to prepare the hall.

The resolution was rejected upon a division—affirmative 9, negative 14.

PREAMBLE AND BILL OF RIGHTS.

Mr. HUTCHINSON. Mr. President, the committee on Preamble and Bill of Rights are prepared to report. In offering this report, Mr. President, it may not be inappropriate for me to make a few remarks relative to the general character and object of the sections therein contained. It is a historical fact, that ever since the days of King John, when the magna charta in favor of British freedom was obtained by the English yeomanry, some declaration of rights similar to the one presented by us, has been common with the people of all countries; but it was not until 1776, when that memorable Declaration of ours came into existence, that the people cut loose from a narrow conception of humanity, and entered upon that broad field of human liberty. All the States [State Constitutions] since that day

down to [that of] the prospective State of Kansas, have contained a similar instrument, that becomes as it were the timbers of the building—the superstructure upon which the edifice of State must be erected. In consequence of it the Constitution becomes more permanent and better grounded in the hearts of the people. It becomes the incarnation of fundamental principles; the steadfast light and hope of each State that survives the terror of tyrants and is the security of the free. This bill of rights starts out on the old maxim that the world is governed too much—that there is too much proscriptive law. We should therefore strive to strike from our organic law every vestige of feudal times. If we examine the history of the criminal records of the past, we shall find the fact staring us in the face, that wherever the most restrictive laws have been passed, there the most crime has been committed. Crimes have multiplied in proportion to the stringency and restrictiveness of laws. In the United States, for the first time in the history of the world, has this meddlesome doctrine of protection been attacked. From the tempest in the Boston harbor down to the battle of Champlain, that was the great motive that influenced the arm of battle to strike it powerless. It is with this people that the widest liberty is enjoyed. The people are here allowed to do the nearest what they like—the nearest what they think and act. The history of legislation in the past teaches us that the best legislation is but the abrogation of former legislation. It is not in doing new things, but in the undoing of something which has formerly existed. This is true in reference to the repeal of the English corn laws. That was not a new edict, neither was it the work of legislation or parliament, or anti-leagues. It sprang from a power behind the throne, and higher than parliament. No great political movement nor political reform in this age ever originates with rulers.

It should be the work of legislation to restore the people back to their natural rights from which preceding legislation has driven them. Even natural industry, private industry as well as national, has been stamped upon by this spirit of protection, and a desire to overlegislate, to hamper the energies of mind, commerce and industry. The hand of government must be felt in every quarter, with its commercial and financial contrivances, forbidding one species of labor and encouraging another. The most common wants must be interfered with by usury laws, oaths must be administered, and so on through a long list of restrictive laws. What follows? What is the effect of this species of restrictive legislation? Is it to [*101] elevate or depress the moral standard? I believe the best *governments which have ever existed are altogether negative in their character rather than positive. It is said in French history, at a certain time, that no people could assemble at the theatre, or on the street, or anywhere, without having soldiers attending them; passports were required of their citizens of mornings under police regulations—pretending thus to secure liberty to the people. Even the government sent its messengers to the markets to see that the meat was in proper condition; and sent them to the stores to see that weights and measures were properly regulated. This was robbing the industry of the people, that industry might thrive. Thus chained down they are not allowed to exercise their own independence. At the slightest difficulties they called on the government. They could not cut a canal or build a railroad without looking up to their ruler for both the mode and means. With our democracy, the rulers should look to the people.

I will simply add, that if there is any one thing more clear than another, it is that wherever a government attempts to protect the people, it does so at the wrong time or for the wrong class. In the history of Kan-

sas we find the proof. We came here as a weak people: it was the duty of the government to lend us its protection. Troops were sent here, not to protect the weak but to defend the strong. Human power is vain-glorious—it is dangerous in the hands of weak man. We may claim that by placing power in certain departments the people will have the benefit of it; but we have no evidence of this.

> . . . . "Man, proud man,
> Clothed in a little brief authority,
> Most ignorant of what is most assured,
> Plays such fantastic tricks before high heaven
> As make the angels weep."

We should be careful, then, how we travel upon fields so full of pitfalls. Now we tread upon these subjects that affect the common people. One of the primitive fathers of this government has given us counsel in this matter. Mr. Jefferson in a letter to Mr. Madison has said: "The executive power in our government is not the only, perhaps not even the principal object of my solicitude. The tyranny of the Legislature is really the danger most to be feared, and will continue to be so for many years to come. The tyranny of the executive power will come in its turn, but at a more distant period." I have simply to add, in conclusion, that in whatever work may be before us, based upon the report I have just offered, we should have these first principles in view: that an instrument may be prepared by us that will not only be an honor to posterity, but that shall accord with the intelligence and advancement of the age.

The report is as follows:

PREAMBLE.

Existence was the first gift of Omnipotence to man. It is the end of the institution and administration of Government to secure to every individual perfect freedom to enjoy in safety and tranquillity the rights and blessings of that existence; and whenever these great objects are obtained, the people have a right to institute a new government, and take measures necessary for their protection and happiness.

The body politic is formed by a voluntary association of individuals; it is a community in covenant, where the whole people treats with each citizen, and each citizen treats with the whole people, that all shall be governed by certain laws for the common good. It is, therefore, the duty of the people, in framing their Organic Law, to provide for an equitable mode of making laws as well as an impartial interpretation and faithful execution of them, that every citizen may, at all times, find security in them.

We, therefore, the people of Kansas, acknowledging, with grateful hearts, the goodness of the Legislator and Preserver of the Universe in affording us an opportunity, peaceably, and without fraud or violence, of entering into an original, explicit and solemn compact with each other, [*102] and of forming a Constitution of civil *government for ourselves and our posterity; having the right of admission into the Union as one of the American States, consistent with the Federal Constitution and by virtue of the treaty of cession by France to the United States of the province of Louisiana; believing that the right of self-government is inherent, and should be asserted in accordance with the popular will and Federal Constitution, to [do] ordain and establish the following Constitution as the fundamental law of a free and independent State, by the name and style of the State of Kansas, bounded as follows, to-wit:

Beginning at a point on the western boundary of the State of Missouri

where the thirty-seventh parallel of north latitude crosses the same, thence westward on said parallel to the twenty-fifth parallel of longitude west from Washington, thence north on said parallel to the fortieth parallel of latitude, thence east on said parallel to the western boundary of the State of Missouri, thence south with the western boundary of said State to the place of beginning.

BILL OF RIGHTS.

SECTION 1st. All men are by nature equally free and independent, and have certain inalienable rights, among which are those of enjoying and defending their lives and liberties, acquiring, possessing, and protecting property, and of seeking and obtaining happiness and safety, and the right of all men to the control of their persons, exists prior to law and is inalienable.

2d. All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the General Assembly which may not be altered, revoked or repealed by a two-thirds vote of the same body, and this power shall be exercised by no other tribunal or agency.

3d. The people have a right to assemble, in a peaceable manner, to consult for their common good, to instruct their Representatives, and to petition the General Assembly for the redress of grievances.

4th. The people have the right to bear arms for their defence and security, but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power.

5th. The right of trial by jury shall be inviolate, and extend to persons of every condition; but a jury trial may be waived by the parties in all cases, in the manner prescribed by law.

6th. There shall be no slavery in this State, and no involuntary servitude, unless for the punishment of crime, whereof the parties shall have been duly convicted.

7th. The right of every man to worship God according to the dictates of his own conscience shall never be infringed, nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any form of worship against his consent, nor shall any control of, or interference with, the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State, nor shall any religious test or amount of property ever be required as a qualification of any voter at any election in this State, nor shall any person be incompetent to be a witness on account of religious belief, but nothing herein contained shall be so construed as to dispense with oaths or affirmations. The liberty of conscience, hereby secured, shall not be so construed as to excuse acts of licentiousness or to justify practices inconsistent with the peace or safety of the State; nor shall any money be drawn from the Treasury for the benefit of any sect, society or institution.

8th. The privilege of the writ of *habeas corpus* shall not be suspended, [*103] unless in case of *invasion or rebellion the public safety requires it; and said writ shall be granted, as a right, in all cases where the Legislature shall not specially confer discretion upon the court; but the Legislature may prescribe preliminary proceedings to the obtaining of said writ.

9th. All persons shall be bailable by sufficient sureties, except for capital offenses where proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

10th. In any trial, in any court, the accused shall be allowed to appear and defend in person, or by counsel; to demand the nature and cause of the accusation against him; to meet the witness face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed; nor shall any person in a criminal cause be a witness against himself, or be twice put in jeopardy for the same offence.

11th. The liberty of the press shall forever be inviolate and all persons may freely speak, write or publish their sentiments on all subjects, being responsible for the abuse of such right.

12th. The freedom of deliberation, speech and debate in the Legislature is so essential to the rights of the people that it cannot be the foundation of any accusation or prosecution, action or complaint in any court or place whatsoever.

13th. No person shall be transported out of the State, for any offence committed within the same, and no conviction in this State shall work a corruption of blood or forfeiture of estate; nor shall any person be liable to be conveyed out of this State for trial in any case where the offence was committed within the same, and no indenture of any persons, made and executed out of the bounds of the State, shall be valid within the State, if inconsistent with the laws thereof.

14th. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the overt act, or confession in open court.

15th. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in a manner prescribed by law.

16th. The right of the people to be secure in their persons, houses, papers, estates, &c., against unreasonable searches and seizures, shall be inviolate; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

17th. No person shall be imprisoned for debt in any civil action on mesne, or final process, except in cases of fraud, and no person shall be imprisoned for a malitia [or military?] fine in time of peace.

18th. Foreigners who are, or who may become hereafter, *bona fide* residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property as native born citizens.

19th. All courts shall be open, and every person, for an injury done him in lands, goods, person or reputation, shall have remedy by due course of law, and justice administered without denial or delay.

20th. No hereditary emoluments, honors or privileges will ever be granted or enforced by this State, nor shall there be any constitutional distinctions on account of sect or sex.

21st. Private property shall be held inviolate, but subservient to the public welfare.—When taken in time of war, or other public exigencies

imperatively requiring its immediate seizure, or for the purpose of making or repairing roads which shall be open without charge, a just compensa- [*104] tion shall be made to the own*ers of the property in money; and in all other cases where private property shall be taken for public uses, a compensation therefor shall first be made in money, or first secured by depositing money, and such compensation shall be estimated by a jury, without deduction or benefit to any property of the owner.

22d. No citizen of this State shall be held to appear before the Supreme Court of the United States on an appeal from the Supreme Court of this State, but when appeals are taken on questions of inter-State law, they shall only be through or from the District Courts of the United States.

23d. This enumeration of rights shall not be construed to impair or deny others retained by the people, and all powers herein delegated remain with the people.

Mr. SLOUGH. Mr. President, I move that this report be made the special order for Monday next. The reason of my making this motion I will state briefly. I notice in the printed report of the committee, which I suppose is a copy of the one just made, the question of boundary will come up, and the committee to which was referred the memorials of the citizens of southern Nebraska will not be ready to report till to-morrow. To-morrow being Saturday, some of our members will be absent, and, as the question is an important one I don't think it should be taken up till Monday.

Mr. THACHER. That committee will probably report this afternoon. I hope the Convention will take up the question soon, because the gentlemen from southern Nebraska are being detained here.

Mr. J. BLOOD. I move to substitute to-morrow morning.

Mr. SLOUGH. I move to amend the amendment to my motion, that this report be made the special order for this afternoon.

This amendment was rejected, upon a division—affirmative 12, negative 19.

The amendment to the motion was agreed to, and the report was made the standing order for to-morrow morning.

Mr. SLOUGH. Mr. President, I believe this is the time limited, under the order of last Tuesday, for all committees to report. They should make some report this morning, if nothing but progress, and ask for further time.

The PRESIDENT. According to the recollection of the chair, the committee on Phraseology and Arrangement and one other were excused.

Mr. J. BLOOD. Mr. President, the committee on Ordinance and the Public Debt are not able to make a full report this morning, in consequence of being delayed with the report of the commissioners on claims. We ask further time.

It was granted by consent.

COUNTY AND TOWNSHIP ORGANIZATION.

Mr. RITCHIE. Mr. President, the committee on county and township organization offers the following report:

SECTION 1st. The Legislature may provide by law for submitting to the people of each county at an annual election, the question of the location of county seats, and the General Assembly shall not change the lines of

counties without the consent of the people of the several counties to be affected by the proposed alterations.

2d. The General Assembly shall provide by law for the election of such county and township officers as may be necessary.

3d. County officers shall be elected at the general election, until otherwise directed by law, by the qualified electors of each county, in such manner and for such time as may be provided by law.

4th. No person shall be eligible to the office of sheriff and county treasurer for more than four years in any period of six years.

5th. Township officers shall be elected on the first Monday of April annually, by the qualified electors of their respective townships, and hold [*105] their offices for one year from *the Monday next succeeding their election, and until their successors are qualified, except the justices of the peace, who shall hold their office for three years.

6th. Justices of the peace and county and township officers may be removed from office in such manner and for such cause as shall be prescribed by law."

Mr. SLOUGH. I move it be made one of the special orders for to-day.

Agreed to by consent.

SCHEDULE.

Mr. BURRIS. Mr. President, in behalf of the committee on Schedule, I ask leave to make the following report:

SECTION 1st. That no evils or inconvenience may arise from the change of a Territorial government to a permanent State government, it is declared by this Constitution that all suits, rights, actions, prosecutions, recognizances, contracts, judgments and claims, both as respects individuals and bodies corporate, shall continue as if no change had taken place.

2d. All fines, penalties and forfeitures due and owing to the Territory of Kansas, or any county, shall inure to the use of the State or county. All bonds executed to the Governor or any other officer, in his official capacity, in the Territory, shall pass over to the Governor or other officers of the State or county and their successors in office, for the use of the State or county, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

3d. The Governor, secretary and judges, and all other officers, both civil and military, under the Territorial government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this Constitution.

4th. All laws and parts of laws now in force in this Territory, not inconsistent with this Constitution, shall continue and remain in full force until they expire or be repealed.

5th. The Governor shall use his private seal until a State seal be provided.

6th. The Governor, secretary of State, auditor of State, treasurer of State, attorney-general and superintendent of public instruction shall keep their respective offices at the seat of the government.

7th. All records, documents, books, papers, monies and vouchers belonging and pertaining to the several Territorial courts and offices and to the several districts and county offices, at the date of the adoption of this Constitution, shall be disposed of in such manner as shall be prescribed by law.

8th. All suits, pleas, plaints and other proceedings now depending in any court of record or justice's court, may be prosecuted to final judgment and execution, and all appeals, writs of error, certiorari, injunctions, or other proceedings whatever, may progress and be carried on as if this Constitution had not been adopted, and the Legislature shall direct the mode in which such suits, pleas, plaints, prosecutions and other proceedings, and all papers, records, books and documents connected therewith, may be removed to the courts established by this Constitution.

9th. No debt of this Territory shall be assumed by the State, except by law passed by a vote of two-thirds of each branch of the Legislature.

10th. Until otherwise provided by law, the seat of government shall be at ————.

Mr. STINSON. I move to make it one of the special orders for to-day.

It was agreed to by consent.

REPORTS FROM COMMITTEES.

Mr. GREER. Mr. President, in behalf of the Committee on the Executive Department I would say that our report has been in the hands of the printer for several days, and I don't know why it has not been returned. In consequence of this we are not prepared to report, and ask further time.

[*106] *It was granted by consent.

Mr. TOWNSEND. Mr. President, the Committee on Electors and Elections will probably be ready to report to-morrow.

Mr. STINSON. Mr. President, the report of the Committee on Finance and Taxation is in the hands of the printer and will probably be given to-day.

Mr. HOUSTON. Mr. President, as chairman of the Committee on Amendments and Miscellaneous, I wish to report progress. The nature of our committee requires us to pick up the scraps. I will state, however, that we are able to report on amendments to the Constitution; but the miscellaneous matters we will be unable to report up till we know what is included in the general reports. I therefore speak for further time, in behalf of the committee, to report.

Mr. SLOUGH. I would suggest the propriety of having that portion of the report which is prepared printed, so that we can dispose of it and not be compelled to wait.

SAMUEL A. LOWE.

The PRESIDENT. I will lay before the Convention the following communication asking that some provision be made for compensation for services rendered by Samuel A. Lowe as Assistant Clerk of the first Legislative Assembly of Kansas Territory.

The communication was read.

Mr. BLUNT. I move to lay it upon the table.

The motion was agreed to.

EDUCATION.

The unfinished business of yesterday coming up in order, to-wit: the consideration of the report of the Committee on Education and Public Institutions—one question being on the proposition of the gentleman from Leavenworth (Mr. Stinson) to add to the second section of the Report from the Committee on Education the words: "but no negro or mulatto pupil shall be admitted to such schools."

(The report is printed in Thursday's proceedings, July 14).

Mr. BLUNT. Mr. President, I believe the first question for consideration, is the amendment of the gentleman from Leavenworth.

The PRESIDENT. According to the recollection of the chair it is Mr. Stinson.

Mr. BLUNT. I think discussion on this question has already taken a wide range, and for the purpose of taking the vote that the further time of the Convention shall not be occupied in giving a wide range to the discussion of matters not germane to the subject under consideration, I call for the previous question.

The demand for the previous question was not sustained by the Convention.

Mr. BLUNT. I move that the amendment lie on the table.

The yeas and nays were demanded, and, being ordered and taken, resulted—yeas, 29; nays, 20—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Lillie, Lamb, Middleton, McCullough, Preston, Palmer, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams [29].

NAYS—Messrs. Brown, Barton, Foster, Forman, Greer, Hipple, Hubbard, Kingman, Moore, McDowell, McCune, McClelland, Parks, Porter, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright [20].

So the amendment was laid on the table.

Mr. BURRIS. Mr. President, I move to amend this section 2d by striking out all after the word "Department."

Mr. BLUNT. Mr. President, I am opposed to striking out anything from that section as reported by the committee; and I am equally opposed to any addition being made. I stated on yesterday in my reasons for voting, or why I should vote, against the amendment proposed by the gentleman from Leavenworth, that I did not wish to incorporate any such provision as was proposed, in the organic law, believing that society would regulate itself in this matter and that the Legislature would make such [*107] provision in re*lation to common schools, as to who should participate in, or derive benefit from those schools—as would be required by the people. The time might come in the future history of Kansas under this law, when the public sentiment would be such that it might be necessary to provide for the education of colored persons and mulattoes in such a manner as would come in conflict with the law. As I do not wish any protection for my children, as I expect to determine with whom they shall associate, and as I believe it a matter every person will regulate as will be consistent with his own feelings, I do not think it necessary that we should determine in our organic law any rule for the Legislature in this matter. I am opposed to striking out this part of the section relative to placing both sexes upon an equality, not only in our common schools but schools of higher grade, because I believe it right and just that all the benefits which inure to the youth of this country from any school system, should inure to the females as well as males. Sir, gentlemen may contend that this is provided for in a certain clause in the Legislative Department which provides that females may participate in elections on all matters pertaining to the government of common schools. This relates only to common schools, and not to schools of higher grades, seminaries, colleges and universities. I think the section is very appropriate. I see a manifest dis-

position on the part of some gentlemen to strike from this section that clause, because the "nigger" question has been forced upon them here. They don't wish to face the music and take the responsibility of the record. They wish to strike from that section this clause, because there would be no opportunity for our Democratic friends to insert the word "white." Now, gentlemen, I am willing to go upon the record upon every vote I propose to cast here; and I say to my Republican friends that if you succumb to the Democrats and strike out this clause in the second section for the manifest purpose of compromising, when you have done that they will still make further demands upon you and will have this Constitution smeared all over with "negro." They will thrust it upon you time and again. When this question of negro or black law comes up at the proper time then I propose to meet the question. If we give way; become weak-kneed and afraid to have our votes recorded, and back down for the manifest reason that we don't wish to face the music, we will find motions here to reconsider what we have done, and then they will propose that no negro shall be elected to the office of Governor; that we elect 75 white members to the House and 25 white members to the Senate; and "negro" will be thrust into every section of the Constitution. I hope the gentleman will not strike out any provision nor vote for any proposition for the mere purpose of evading responsibility on this question.

The amendment was adopted.

Mr. LILLIE. Mr. President, I wish to have the word "agricultural" struck out, and the word "industrial" inserted.

The motion was rejected, and the section as amended was adopted.

Section 3 was read and adopted.

Section 4 was read.

Mr. STINSON. Mr. President, I move to amend by inserting after the word "therein" these words: "excepting negro and mulatto children and youth."

Mr. BLUNT. I move to lay it on the table.

On this motion the yeas and nays were demanded, and being ordered and taken resulted—yeas 33, nays 17—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, May, McCullough, Preston, Palmer, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, T. S. Wright, Williams—33.

[*108] *NAYS—Messrs. Brown, Barton, Foster, Forman, Greer, Hipple, Hubbard, Moore, McDowell, McCune, McClelland, Parks, Slough, Stinson, Stiarwalt, J. Wright, Wrigley—17.

So the amendment was laid on the table.

Mr. BLUNT. Mr. President, I have one suggestion to make, the object of which will be to save much time in calling the yeas and nays. They may make all the amendments they choose about negroes, but let us have the yeas and nays on them all at once.

Section 4 was adopted.

Section 5 was read and adopted.

Sec. 6 was read.

Mr. WRIGHT of Nemaha. I move to strike out the word "counties" and insert "townships."

Mr. HOUSTON. Mr. President, I hope my friend from Nemaha will not press this matter. It seems to me that the expenses connected with this source of revenue are to be borne equally by all parts of the county, and it is nothing but fair that the whole people of the county should share in the benefits that come in this way.

The amendment was rejected.

Sections 6, 7, 8 were adopted, and so that portion of the report was passed.

PUBLIC INSTITUTIONS.

The first paragraph in this branch of the report being read by the Secretary—

Mr. STINSON. Mr. President, I desire to offer a section in the article on education.

The PRESIDENT. The gentlemen will not be in order until after the whole report shall be gone through with.

Mr. BURNETT. I would suggest that there was one section adopted in committee of the whole which has not been read yet.

The PRESIDENT. The gentlemen are not in order.

The paragraph was adopted without amendment.

The second and third paragraphs were adopted.

The fourth paragraph was read.

Mr. MCDOWELL. Mr. President, I move to amend by inserting after the words "infirmity or other misfortune," the words "except negroes and mulattoes."

Mr. BLUNT. I move to lay it on the table.

Mr. THACHER. I wish to ask the gentleman to withdraw his motion, and let us have a distinct vote on the amendment.

Mr. BLUNT. I withdraw it.

The yeas and nays were demanded, and being ordered and taken resulted—

Yeas 2, nays 48—as follows:

YEAS—Messrs. Foster and McDowell—2.

NAYS—Messrs. Arthur, Burnett, Blunt, Brown, Barton, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, May, Moore, McCune, McClelland, McCullough, Preston, Palmer, Parks, Porter, Ritchie, Ross, Sinnor, Slough, Stinson, Stiarwalt, Stokes, Simpson, Thacher, Townsend, J. Wright, Wrigley, T. S. Wright and Williams—48.

So the amendment was rejected, and the 4th paragraph was adopted.

Mr. THACHER. Mr. President, I propose an additional section, and I do so because I suppose the amendment of the gentleman from Leavenworth was based upon "brown." It was not inserted in the proper place, and therefore I propose this section:

"None of the provisions of this article shall apply to or include negroes or mulattoes."

Mr. SLOUGH. I move to lay it on the table.

Mr. STINSON. I think the proposition is most—

The PRESIDENT. The question is not in order.

The yeas and nays were demanded, and being ordered and taken, resulted—yeas 47, nays 3—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Brown, Barton, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Foster, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Hutchinson, Hanway, Hoffman, Houston, Ingalls, [*109] *Kingman, Lillie, Lamb, Middleton, May, Moore, McCune, McClelland, McCullough, Preston, Palmer, Porter, Ritchie, Ross, Signor, Slough, Stinson, Stiarwalt, Stokes, Simpson, Thacher, Townsend, Wrigley, J. Wright and Williams—47.

NAYS—Messrs. McDowell, Parks, T. S. Wright—3.

So the amendment was laid on the table.

The PRESIDENT. The clerk informs the Chair that by mistake the section numbered section 9 (introduced by Mr. J. Blood), in the place of the ninth section stricken out, was not read in its proper place and passed upon. The clerk will read.

Mr. STINSON. Mr. President, I desire to offer an additional section to the article on Education, to be numbered section 10. It is as follows:

"SEC. 10. No negro or mulatto shall be admitted to the University, or to any of the schools mentioned in this article."

Mr. BLUNT. Lay it on the table.

The yeas and nays were demanded on this motion, and being ordered and taken, resulted—yeas 31, nays 16—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, May, McCullough, Preston, Palmer, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, T. S. Wright and Williams—34.

NAYS—Messrs. Brown, Barton, Foster, Forman, Hipple, Hubbard, Moore, McDowell, McCune, McClelland, Parks, Slough, Stinson, Stiarwalt, J. Wright, Wrigley—16.

So the amendment was laid on the table.

Mr. BURRIS. I move that the article just passed be printed and referred to the committee on Phraseology and Arrangement.

The motion was agreed to, and the order was made accordingly.

COUNTY AND TOWNSHIP ORGANIZATION.

Mr. HIPPLE. Mr. President, I move that we proceed to the consideration of the Article on County and Township Organization.

Mr. SLOUGH. I move that we go into committee of the whole on that subject.

The motion was agreed to.

The Convention accordingly resolved itself into committee of the whole—Mr. Hutchinson in the Chair—and took up the Article on County and Township Organizations. (It is printed above.)

Mr. BROWN. Mr. Chairman, I move that it be read and considered section by section.

It was agreed to by consent.

Sections 1 and 2 were read and adopted.

Section 3 was read.

Mr. SLOUGH. Mr. Chairman, I move to strike out that section for the

reason that I think it more properly belongs to the committee on electors and elections. This report has not been made, but will cover the election of both county and township officers.

The motion was agreed to.

Section four was read.

Mr. SLOUGH. I move to strike out "and" and insert "or."

It was agreed to by consent, and so section 4 was adopted.

Section 5 was read.

Mr. SLOUGH. Mr. Chairman, for the same reason that I made the motion to strike out section 3, I move that section 5 be stricken out. It is provided for in the proper report of the Committee on Electors and Elections.

Mr. THACHER. I would ask whether this section is in that report?

Mr. SLOUGH. That portion of the section proper for us to act upon (having disposed of the term of office of Justice of the Peace), will be disposed of by the committee just referred to.

Mr. TOWNSEND. The length of time we don't have anything to say about. If we fix the time here we can fix it in our own report.

Mr. KINGMAN. Mr. Chairman, I would offer as a substitute for section 5 the following:

[*110] "SEC. 5. Township officers, except Justices of *the Peace, shall hold their offices for one year from the Monday next succeeding their election, and until their successors are elected and qualified."

The substitute was adopted.

Sec. 6 was read and adopted.

Mr. THACHER. Mr. Chairman, I suppose that amendments are still in order. When the first section passed, I was not paying attention. In it there is a principle involved, and although my own local interests are probably in favor of the section, my convictions of duty to the people at large, compel me to call attention to it.

"SEC. 1. The Legislature may provide by law for submitting to the people of each county at an annual election, the question of the location of county seats, and the General Assembly shall not change the lines of counties without the consent of the people of the several counties to be affected by the proposed alterations."

I wish gentlemen to understand that provision prevents the erection of any new counties out of old ones. The principle involved is this: It should be with the consent of the people in the district to be affected by the proposed alteration—to be included within the new county. If you allow two counties to demand that a new county be erected out of territory belonging to both, the people residing therein protesting against it, and there is sufficient power to overcome the rightful protest, they are thus set off unwillingly. The people within the district ought to be allowed to pass upon it, and those outside ought not. My local interests would favor it as it stands, but my convictions of the principle are the other way. I merely call attention to this fact for the purpose of bringing it up to the minds of all. As I am locally interested in having it as it is, I will make no motion.

Mr. KINGMAN. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose and the chairman reported the article with sundry amendments, as above.

On motion by Mr. SIMPSON, the convention proceeded to the consideration of the report section by section.

Section 1 was read.

Mr. WRIGLEY. Mr. President, it seems to me the object of this section is to prevent the Legislature not only from changing county lines, but county seats seem to have been omitted. I move to insert after the words "lines of counties," the words "or the county seats of the several counties."

Mr. THACHER. I suggest that will make it read absurdly.

Mr. KINGMAN. Put it before the word "line."

Mr. WRIGLEY. I accept.

Mr. HOUSTON. Mr. President, I move to amend the amendment by striking out all after the words "location of county seats."

Mr. BURRIS. It seems to me, Mr. President, that the amendment proposed by the gentleman from Riley (Mr. Houston) would strike out that which is most valuable in this section. I consider the last part the most efficacious to secure and protect the rights of citizens of the different counties. Gentlemen take the wrong view of the case when they say it would prevent a change. If the people of one, two, or more counties desired the change, clearly they would have the right to petition the Legislature for its lines or county seats to be changed. This should be required. If the people of a populous county should desire to add some sparsely settled territory to it, they ought first to obtain the consent of the inhabitants of the county over whose boundaries they propose to break. I am in favor of this section just as it stands, and it seems to me proper and just that it should be incorporated in the Constitution. I hope neither amendment will prevail.

Mr. PRESTON. I dissent from the opinion that the amendment affects the rights of the minority. It is well known that the county seat is sup- [*111] posed to be the largest town in the county. *The county seat may be right on one side of the county, compelling the other side to travel the whole length of the county to do county business. There is a community that is inconvenienced by the rule of the majority; but right and justice not only gives them the privilege to petition the Legislature for the power to make an alteration, but the Legislature protects their rights. We have an instance at this time where the county seat is located right on the edge of the county, and that county seat may have a majority. Now are we to say that town shall compel all the inhabitants of the county to come to it? The inhabitants of the county have more business to do in the county seat than those who live there. Those living in the county town, perhaps, have very little county business to do. The location of county seats should be made to accommodate the rural districts and not the towns. I shall favor the amendment.

Mr. BURNETT. Mr. President, I hope an amendment of some kind will prevail. The section prevents the Legislature from ever making any change in county lines. Gentlemen need but look upon the map of Kansas to see that there exists a necessity, if we consult the convenience and wishes of the people, that certain lines should be changed. There is a mile strip on the west side of Bourbon county, and it is the wish of a majority to be set into another county, and there is a corner in Bourbon county of one-quarter of a Congressional township, that also wishes to come into the

arrangement. Bourbon may vote for it, and Linn may vote for it—both remain out—while the people most interested may vote against it; taking the aggregate vote, it would be, say, nine-tenths for it and one-tenth against it. So the district proposed to be affected, will have the power to defeat the proposition. I think, sir, you should not tie up the Legislature in such a manner as to bar and prevent their carrying out the wishes of the people.

Mr. THACHER. Mr. President, I offer the following substitute for section 1:

(All record of this amendment is lost).

Mr. THACHER. Mr. President, I believe the more I reflect the more I am convinced that this is a matter which we ought not to bind so effectually. There is a district across from Shawnee that would naturally come into that county, but a majority doing business at the other end would vote against it, when it would absolutely serve the wants of the people affected thereby. These changes throughout the Territory would accommodate large bodies that would be defeated by selfishness around the county seat. The only honest principle is to leave it to the people of the district included within the proposed change.

Mr. RITCHIE. In defense of the article, I would just state that there is no selfish motive actuating the committee which reported it.

Mr. THACHER. I did not say any such thing.

Mr. RITCHIE. It was so intimated.

The PRESIDENT. Gentlemen will confine their remarks to the question, and address the chair.

Mr. RITCHIE. With respect to new county seats, the committee were of opinion, where a change was proposed by one county, that the voice of the people of the whole county should be heard concerning the question, and nothing more. Suppose Shawnee and Jackson counties desired a change in the line. Now in this article, as it stands, Jackson county as a whole should be consulted, and Shawnee county could not force Jackson to give up a portion of her territory. These propositions are on the principle of the big fish eating up the little fish. I hope none of the amendments will prevail.

Mr. BURRIS. Mr. President, it seems to me the remarks of the gentleman from Douglas (Mr. Thacher) show an objection which might be urged against allowing the Legislature to change county lines with the consent of residents in a particular district. We may suppose two counties lying side by side. In one they may have levied taxes and erected public build-
[*112] ings. After being heavily taxed for a long succes*sion of years they get through with all their public expenses, and then a little strip of Territory on one side of the other county, in which they have yet taken no steps toward their public works of improvement, might desire to be attached to the county that has gone through with these expenses. They might petition the Legislature and thus leave the county poorer, and less able to bear such expenses as putting up her public buildings, building bridges, &c., where this strip of territory would escape and shirk its portion of taxation. I think the people of both counties in their aggregate capacity are interested in any question of this kind that may come up. I hope neither the substitute nor the second amendment will be adopted. Let the wishes of all the counties concerned be taken into consideration.

Mr. HOUSTON. Mr. President, I suppose we all agree that we sometimes commit errors ourselves. I suppose the men that have preceded us

have not been men with different passions and judgments from ourselves, and that they sometimes committed errors. I think the bogus legislation that made these county lines committed some gross errors, and they ought [to be,] and will be corrected. You should not make the matter permanent, so that the Legislature could not change county boundaries, no matter how much it might be injurious to the people. Shall we place ourselves in so awkward a predicament as this, that we can't possibly avoid the results growing out of it? I am in favor of the amendment of the gentleman.

Mr. PRESTON. Mr. President, I cannot conceive why my colleague thinks this is the best way. I live in a small town that is ri ht on the edge of the county. We have to go 25 miles to do county business; and yet we are within two miles of another county seat. The voice of the county could put us to this inconvenience as long as they pleased, if this is passed. It is unjust. The matter ought to be left with the people of the district directly interested. What are county seats established for, if not to afford facilities for the people of the county to do county business? And surely the people in the county are those having the most county business to be done.

Mr. GRIFFITH. Mr. President, I understand that to mean that the vote shall be submitted to the people of the district or county that is proposed to be organized into a new county, or clipped off of another. It is possible that a large county could clip a small county to its very great detriment. In the county where I reside there is a strip of land three miles wide between Linn and Bourbon counties. Now, whichever of these counties has a majority of voters would have the strip of land according to the section, but if we put it in the form of the substitute, we leave it to those persons residing in that section of the country.

Mr. THACHER. Mr. President, I believe it is better to leave the matter to the Legislature. I think it is customary to leave the Legislature to act upon this matter. As it stands now, it does allow the big fish to eat the little ones. It prevents a small community from leaving one county and going into another.

Mr. BLUNT. Mr. President, I don't exactly accord my views with the substitute, and I don't think it exactly carries out the views of the mover. It provides that no county lines shall be changed without the consent of the people—

Mr. THACHER. I withdraw my substitute.

Mr. BLUNT. Then, Mr. President, I wish to offer the following as a substitute:

"SEC. 1. The Legislature may provide by law for the organization of new counties, locating county seats, and the changing of county lines."

It is evident, that at no far distant day, there must be some changes in county lines to make them conform with township lines, &c. There [*113] *is not in the whole Territory of Kansas a county boundary that is established upon township lines. A change may be proposed in a county line in which four counties are interested. Three of these may agree and the fourth oppose such a change; and thus the change can be defeated, against the will of the other three. Hence I had rather leave this matter to the Legislature, inasmuch as we cannot get at it in a way satisfactory here.

The substitute was adopted upon a division—affirmative 25, negative 20.

Mr. WRIGLEY. Mr. President, I desire to offer an amendment, which I will read:

"The Legislature may provide by law for submitting to the people of each county, at an annual election, the question of the location of county seats, and the Legislature shall not change the county seats, or boundaries of counties, without the consent of a majority of the people of the counties directly interested in such change."

I think the substitute I offer removes the objection which the gentleman from Douglas (Mr. Thacher) recited. It does seem to me that the people of the district immediately interested ought not to have the full say in the matter.

The PRESIDENT. The chair thinks the amendment out of order, as a similar question has been passed upon by the committee.

Mr. WRIGLEY. In this instance it would require a majority of all the counties interested to effect a change.

The PRESIDENT. Unless objection is made, the chair will entertain the substitute.

It was laid on the table, upon a division—affirmative 23, negative 20.

The section as amended was then adopted.

Sections 2, 3, 4, 5, were read and adopted.

So the article passed, and then it was referred to the committee on Phraseology and Arrangement.

SCHEDULE.

The special order is the report of the committee on Schedule.

Mr. BLUNT. I move that we go into committee of the whole on that report.

The motion was agreed to.

The Convention accordingly resolved itself into a committee (Mr. Burris in the chair) and proceeded to the consideration of the schedule.

On motion by Mr. SLOUGH it was taken up section by section.

Section 1 was read and adopted.

Section 2 was read.

Mr. THACHER. Mr. Chairman, I move to insert the word "Territorial" just before the word "Governor" where it first occurs.

It was agreed to by consent.

Section 2 was adopted.

Mr. HOUSTON. I would suggest another amendment.

The CHAIRMAN. The Chair is of opinion the amendment would be out of order. It can be reached hereafter.

Section 3 was read and adopted.

Section 4 was read.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I desire to make an amendment to this section. Strike out the word "now" and insert after the word "Territory" the words "at the time of the ratification of this Constitution by Congress," making it read as follows: "Sec. 4. All laws and parts of laws in force in this Territory at the time of the ratification of this Constitution by Congress, not inconsistent with this Constitution, shall continue and remain in full force until they expire, or be repealed." My object for

making this amendment is this: I remember at the time the Lecompton Constitution was before Congress for ratification, that the question was mooted as to whether, if that Constitution were to be ratified, laws passed [*114] by the Legislature after the passage of that *Constitution by the convention here would be of binding force and effect. It seems to me it would be far better for us to state a limit, instead of leaving it in this shape. It is suggested that the word "acceptance" would be preferable to the word "ratification." I accept the modification. The case is simply to apply where it is probable we shall have a Territorial Legislature before the acceptance of the Constitution by Congress. We shall say at the time the constitution goes into effect, all laws which that Legislature has passed, shall also be recognized as laws; that there shall be no question as to whether they are laws or not.

The amendment was adopted; and section 6 as amended was adopted.

Section 5 was read and adopted.

Section 6 was read.

Mr. SLOUGH. I move to insert after the word "Governor" the words "Lieutenant Governor."

Mr. MCDOWELL. Mr. Chairman, I don't see the necessity of that. As the Executive Department has not been passed upon, we have not decided to have a Lieutenant Governor, and if we do have one, it will not be necessary for him to have an office at the seat of government.

Mr. SLOUGH. I withdraw the amendment. I see the point of the gentleman.

Section 6 was adopted.

Section 7 was read.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I would suggest as to whether the language of this section is not a little vague. Legal gentlemen can state what ground there is for ambiguity; whether the adoption by the people or acceptance by Congress is intended.

Mr. THACHER. I propose "at the date of the admission of this State into the Union," instead of "at the vote on the adoption of this Constitution."

The amendment was agreed to, and so section 7 was adopted, by consent.

Section 8 was read.

Mr. PRESIDENT WINCHELL. Strike out "now."

It was agreed to by consent.

Section 8 was adopted.

Section 9 was read.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I would like to know what will become of the debts of the Territory, unless paid by the State? I always supposed they were bequeathed to the State.

Mr. J. BLOOD. I don't know as I understand the meaning of that section. I would propose to amend by substituting for "no debt" the words "all debts" and strike out all after the word "State."

Mr. MCDOWELL. Mr. Chairman, we reported it in this shape to hear and express opinions upon it. I think all precedent is that the debts of a Territory are paid by Congress. Of course we desire the debts shall be paid by Congress, but if Congress should refuse, there remains a series of debts, the payment of which is unprovided for; so we have here given the Legislature power to saddle the indebtedness on the State. Now, there may be, under this section, a very important question, and it is this: It is claimed

by some gentlemen outside of the Convention, that the State will perhaps necessarily have to assume the claims reported by the commissioners on claims; and if that proposition is to come before the Legislature, and it probably may, we have provided that the indebtedness shall not be saddled upon the State until a vote of two-thirds of the Legislature endorses such a proposition. I hope members of the Convention will give some expression upon this question. I think it is an important one; and whatever the majority see fit, we will adopt.

Mr. BLUNT. Mr. Chairman, I will offer the following as a substitute for that section.

[*115] "SEC. 9. No debt of the Territory shall *be assumed by the State, except as may be provided by law."

That leaves the matter, in case our indebtedness is not assumed by the general government, so that the Legislature may provide for the payment of these debts without a two-thirds majority. As a matter of course our Legislature will have to meet and pass laws before we emerge from a Territory into a State, and I think the substitute will meet the case.

Mr. THACHER. Mr. Chairman, I wish to submit a few remarks on this question. The gentleman from Leavenworth has undoubtedly expressed the truth with regard to the precedents on this subject. The debts of the Territories have been paid by Congress, and I think there is no provision ever found in a Constitution whereby the State agrees to adopt the debt of the Territory, it being naturally devolved upon the general government I think we should be still more careful. The bonds are drawn, and it is a debt properly vouched for. Now suppose, as it is in this claim matter which has come before us, that something in the neighborhood of one hundred thousand dollars of drafts have been made upon the Territory by the auditor and passed into bonds, they are as complete evidences of debt as can be found. If, we say, all debts of the Territory shall be assumed by the State, why, that is a direct assumption of this indebtedness—and how much more, there are perhaps few members on this floor who know. I am of the opinion we should do the people great violence if we adopt these debts. Let the Legislature pass upon them, and let the people say whether they are willing to pay these debts or not. The adoption of the section as it now stands would suit me exactly. I wish the State of Kansas to start without owing a debt in the world. Whatever debts the Territory owes, they belong to the general government to pay, and it is time enough, when the general government refuses to pay them, to think about assuming them. I trust the section will be allowed to stand just where it is. We know it is harder to get through the Legislature the assumption of these debts by a two-thirds vote than by a bare majority vote. No gentleman can be ignorant of the efforts that would be made to carry through this business, and hence I insist that we should not adopt a provision which will sink the Convention so low that a vote of twenty-five thousand people will scarcely resurrect it. The people will vote down the constitution in such an event. But the ninth section, as it now stands, will carry a guarantee to them that they are not to be imposed upon in this matter. Any other provision is an assumption of these claims, and will make the people of the State of Kansas regret the day in which they had any hand in its construction. I hope the provision will be allowed to stand where it does now.

Mr. BLUNT. I would like to know whether two-thirds would be more honest than a majority?

Mr. MCDOWELL. You might buy a majority easier than two-thirds.

Mr. BLUNT. I would suggest to the gentleman (to carry out the idea that he is afraid corruption might be worked and these debts be saddled upon us), that the substitute might be amended by inserting "any law which the Legislature passes must be submitted to the people for their ratification."

Mr. THACHER. That will suit me.

Mr. BLUNT. I will so amend it with the consent of the Convention.

Mr. J. BLOOD. Mr. Chairman, I was somewhat surprised to notice that section in this article. It seems to me such a provision is unusual. I think no new State has ever made such a provision in any constitution which [*116] has ever been framed, and I can see no necessity for any such *provision in this. I do not know what the object of inserting it there could have been, unless it might have been to repudiate the debts of the Territory. If, as gentlemen say, they are to be paid by Congress, there is no necessity of repudiating them. Then there is no distinction made for any purposes whatever. We are contracting a debt here for which scrip will be issued, and we propose, in this section, to repudiate this very debt! I don't know but that some gentlemen may have an idea of raising the value of scrip.

Mr. GRAHAM. Mr. Chairman, as the case of these claims which have recently been adjudicated upon has been introduced here, it is due to this body, and it is due to me as a member of the last Legislature, to say how that law came into existence. It is due to this body that I should state the facts connected therewith, and what has occurred since. The bill provided for the appointment of three commissioners—one by the Council, one by the House, and one by the Governor, and that their action should be final and conclusive. It was introduced in the House and met with the nearly unanimous voice of that body. On the passage of that bill it struck my mind that such definite action should not be taken by the three men who might be called upon to decide upon these claims; and that a safeguard should be thrown around them for the sake of the people. I got up as quick as I could and proposed an amendment, that these commissioners' decision should not be final, but that the Legislature should require them to report their proceedings to this Convention, for the purpose of sending to the government of the United States the amount found to be lost or destroyed, and asking them to pay it; and that at a subsequent meeting of the Legislature these commissioners should report the facts—they having no power to adjudicate finally upon the claims. There being no opposition scarcely to the passage of the bill, I did not get my amendment read until it got beyond the second reading, and then I was ruled out of order by the Speaker, saying that it could not be amended on the third reading. The bill passed with only three dissenting voices. In a few days the friends of these claimants introduced in our body a bill providing for five hundred thousand dollars of these debts to be paid by bonds of the State payable in 1865, with interest. This began to alarm the body. They thought that this thing was carrying the matter too far—at least it was placing in the hands of a few men too much discretion. We resisted that and voted it down. The former bill, however, received the signature of the Governor and became a law. The Council had elected their man; but we in the House came to the conclusion, in order to defeat the veto, not to elect our man. The friends of our claimants introduced an amendment to the bill, as passed, and thus a law, that these commissioners should have no more power than merely to ascertain the facts and report to this body—their action having no binding force upon the people of Kansas. That amendment passed through both branches of the Legislature, but so anxious

about it were we that not until that bill received the signature of the Governor (and it was returned to us about 11 o'clock on the day of adjournment) did we elect our man. But in direct violation of this law—I charge no fraud anywhere—it appears now that it did not apply to the bill creating the commissioners. That is the dodge taken by the Auditor, and bonds have been drawn by him to pay these adjudicated claims, and he has made them a debt absolutely. Therefore, under these circumstances, it is due to the people that the spirit and intention of the law should be [*117] respected; and I think it is carried out *in this section. I favor the adoption of the section for these reasons.

Mr. KINGMAN. Mr. Chairman, I move that the Committee rise and ask leave to sit again, as the adjoining time has come.

The motion was agreed to.

Accordingly the Committee rose, reported progress, and asked and obtained leave to sit again.

The President then adjourned [the] Convention till 3 o'clock, P. M.

AFTERNOON SESSION.

The President's hammer called the Convention to order at 3 o'clock.

Mr. FORMAN. Mr. President, I move to suspend the rules in order to allow me to make a report from the committee to which was referred the petitions of citizens of Southern Nebraska.

Mr. SLOUGH. If the gentleman will withdraw his motion, I will make one that will give him an opportunity to make his report in regular order.

Mr. FORMAN. I withdraw.

Mr. SLOUGH. Mr. President, I am informed that the delegates from Southern Nebraska are anxious to return home, and for the purpose of giving them an opportunity of being heard upon this question, and in view of the fact that it will be almost impossible to complete the report we had before us this morning, I move that the further consideration of the schedule be postponed until Monday next.

Mr. THACHER. I suggest to-morrow morning.

Mr. SLOUGH. There is a blank in that report which I think we will have some difficulty in filling; several members cannot be here to-morrow; and I ask as a matter of personal favor that it be disposed of till Monday.

Mr. J. BLOOD. I favor the postponement till Monday.

Mr. THACHER. I withdraw my objection.

The motion was agreed to.

THE NORTHERN BOUNDARY.

Mr. FORMAN. Mr. President, in behalf of the committee I offer the following report:

"The select committee of thirteen to whom was referred the memorial of certain delegates elected by the citizens of that part of Nebraska Territory South of the Platte River, to attend this Convention, asking that the Platte River be made the Northern Boundary of the State of Kansas, beg leave to refer the same back to the Convention without recommendation.

JOHN W. FORMAN, Chairman."

Mr. STINSON. I move that the Convention go into committee of the whole on the memorial.

Mr. J. BLOOD. I believe it was the decision of the Convention to make that the special order for to-morrow morning.

Mr. SLOUGH. Mr. President, I move to reconsider the vote by which the report on the Preamble and Bill of Rights was made the order for to-morrow.

Mr. J. BLOOD. Mr. President, I can see no necessity for taking this question this afternoon, and would much prefer it would lie over till to-morrow morning.

Mr. SLOUGH. These gentlemen, as I have suggested, are anxious to return home, and I think it better to reconsider, so as to give them an opportunity of being heard this afternoon.

Mr. J. BLOOD. I have no particular objections, but I supposed the decision of the convention was satisfactory, and I was in hopes some other reports would be taken up.

Mr. THACHER. I suppose the object of going into committee of the whole is merely to listen to these gentlemen. I suggest that the gentleman modify his motion so as to take up the report of the committee of thirteen.

Mr. STINSON. I would ask if it is necessary to reconsider the vote, to take up the report?

The PRESIDENT. The Chair suggests that it would be well to keep the reports in their order, together, to avoid confusion.

[*118] *The motion to reconsider was then agreed to.

Mr. SLOUGH. I move that we go into committee of the whole on so much of the Preamble and Bill of Rights as refers to the Northern Boundary.

The motion was agreed to.

The Convention thereupon resolved itself into a committee, Mr. Stinson in the Chair.

Mr. THACHER. Mr. Chairman, I move that the gentlemen representing Southern Nebraska upon this floor be invited to speak.

It was agreed to.

Mr. SLOUGH. I would suggest for the convenience of the speaker that the gentleman take the stand.

The CHAIRMAN. The gentleman will please step forward to the stand or near it.

Mr. REEVES. Mr. Chairman, permit us delegates from Southern Nebraska, through you, to express our thanks to this Convention for the courtesy extended toward us. We regard the proposition which we have come here to lay before this Convention as one of paramount importance to us, and we have the vanity to think that, if it is properly understood, it will be regarded as an important matter in Kansas Territory. We propose that the Convention shall define the boundaries of the State of Kansas as it sees fit; and then insert a provision that the northern boundary shall be extended to Platte River, provided that Congress, and the people of Kansas and Nebraska, included within the boundary, shall assent.

If this is not satisfactory, let the Convention define the boundaries, and simply memorialize Congress to extend the boundary to Platte River.

Perhaps, before I go any further, it would be well that I should state what particular subjects we have in view to lay before this Convention. We were elected by the people of the Southern portion of Nebraska, acting in their own sovereign capacity, and sent here for the purpose of having the subject of extending the Northern boundary of Kansas to Platte River gravely considered by you. We did not come here with a view of making this a *sine qua non*, or as a condition precedent to your admission into the Union. We ask nothing of this kind. What we ask is, that the matter may be fairly laid before the Convention, and through it fairly laid before the people and the Congress of the United States, believing that our cause is a just one and will ultimately prevail. If your people will not consent, and Congress shall refuse to give their assent, you can fall back upon your original boundaries, and we don't propose to throw one particle of an obstacle in the way of your coming into the Union with your present boundaries.

It is necessary, perhaps, before entering particularly upon this subject that I should give some of the reasons which have influenced us in thus coming to you and asking you to extend your jurisdiction over our country. First, I would say that we are a common people, sprung from a common ancestry, descendants of the same fathers of 1776, knowing how to appreciate their rights and desirous of placing themselves in such a position that they may exercise them. We have too, with you, common interests and common sympathies. We have ever sympathized with you in your struggle for freedom, and when aid could reach you through no other quarter a passage was found through the very country which I in part represent to bring men, munitions of war and provisions for the aid of this people. We have a common interest, for we are upon the same great line of travel. A large portion of the eastern travel striking westward and to the gold mines goes through your Territory, and another through our Territory, but all concentrating in this section of country which we propose to give [*119] to you; and which, if secured to you, would *unite the whole western travel within your own borders.

Another consideration which induces us to ask for this change in our jurisdiction is, that the Platte river is the natural northern boundary of Kansas, while our present boundary is only an imaginary one. It is a wild, turbulent and almost impassable stream; it is not navigable even for flatboats. And as evidence of which I will just state, that an hour or two ago I noticed a statement in a letter written from Denver City, which says, that many emigrants have attempted to return in boats, and that it is doubtful whether their descent will be safe. Such is the character of the stream that, though a ferry may be running across at this place this evening, it may be found utterly impracticable to cross to-morrow. Members elected to the Legislature from our section cross the Missouri river, go up through the State of Iowa, and recross the Missouri, to get to the capital.

But the trouble is not found wholly in the fact that the Platte river is so impassable a stream. There has been a fruitful source of strife, of sectional feelings, which has kept the Territory in continual ferment from the day of its organization down to the present time. Our capital was located by force and violence north of Platte river. The people have twice voted to remove it, and twice have been foiled in the act. I was present at one time and saw this thing: the crowd broke across the bar, took the speaker from the stand by violence and thrust him under the table, and nothing restored order but the intervention of the Governor with the military. Then, in

self-defence, and out of respect to themselves, the Legislature adjourned to the adjoining town of Florence, where they finished up their legislation and delivered it to the Secretary of the Territory, who took it and locked it up in his safe—and there it remains, for aught I know, to this day. We refused to publish it, and utterly refused to pay members from Omaha. Thus, gentlemen, you may perhaps perceive that while you have had war, we have not been quite at peace.

Another reason why we urge this boundary upon you is in the consideration that the 40th degree of north latitude is an imaginary line, which is inconvenient, facilitates escapes, and causes to arise questions of jurisdiction. If I commit an offence against law, all I have to do is to step across the line and I am safe till you get a requisition from the Governor—thus facilitating escapes upon all hands; while, if the boundary line extended to Platte river, that river is almost totally impassable and would be an effectual barrier to all that.

Another cause of complaint with us is this: they having the seat of government at their point, of course have all the Federal appointees, such as the Governor and Secretary, who have the disbursement of the public moneys. There has been appropriated by Congress for works of internal improvements one hundred and fifty thousand dollars; and the records will prove what I here assert, that every single dime has been laid out north of the Platte river. Not one dime has ever found its way south of the Platte. The money which was appropriated for the construction of the Capitol, was squandered; and the appropriation for military roads was every dollar expended north of the Platte river. They tax us to make their own improvements. They send us Judges who do not hold our courts—and Secretaries who treat the Legislature as a guardian would treat his wards.

And in addition to this, the general government, in its protecting care and kindness to us, has seen fit to send us judges—men who, if worthy the title, at least have forfeited it by the conduct which they have manifested towards us. One thing is certain, they have grossly neglected the duties of their office. We have had but one court in the most populous county in the Platte river country for two years, and there are four [*120] hundred cases on the docket. Our *Judge is now away on a visit in Ohio; court is held the first Monday in August, but whether he will be there or not is more that I can tell. Our country is put to just as much expense as though the business of court was correctly transacted. Can it be wondered at then, that we should have got a little tired of federal intervention?

We desire to participate in the benefits of railroad grants, and to unite our destiny with a wealthy, populous, energetic people, with the view of lessening the burdens of taxation, and augmenting our influence in the national councils.

Again, by a decision of the Department at Washington, it has been determined that no Territory can use school lands that are reserved for the use of States that may be formed out of it. We have sued, through our delegate in Congress, to have this land set over for our use, that we might make use of the interest procured from its sales. We have been answered that we cannot have control of this money until we come into the Union as an independent State. This is another argument that operates alike upon us and upon you. We have much good land which has been donated, by the government for the purposes of education; but we cannot use it until we are admitted into the Union. If there is any people under

the sun who do need their funds for common school purposes, it is the early settlers of a country. We desire to secure this blessing by annexation with you.

Now having stated to you some reasons which have influenced us in this action, and they are but a few out of many, I will go on to state a few of many reasons which I think ought to influence the people of Kansas in favor of this project.

It will add more fertile tillable land, add population, wealth, influence and distinction, and lessen taxation.

It will open a communication through free territory with all the eastern cities.

It will make Kansas a first class State—which she cannot be without it.

It will weaken the competition of Omaha and Council Bluffs for the line of the Great Pacific Railroad.

You will observe, on the map of Kansas, that she has a very limited river front. By looking a little farther you will discover that by the annexation of this small territory, you will fully, perhaps more than double your river front; and it is a well established fact that both in this Territory, and in the Territory of Nebraska, the aggregation of wealth and of population will, perhaps for years to come, be found upon its river front. Then, in addition to this fact, the river front is the richest portion of country we offer to you. The soil of that country is unsurpassed by anything that you have in Kansas.

Perhaps it would be well for me to give a brief description of that section of country. Commencing on the 40th parallel of northern latitude, where the same intersects the Missouri river, and running up three miles, we come to the mouth of the Great Nemaha river, a clear, running, wild and very narrow mill-stream, which, as you go up, branches out and traverses the whole country embraced by three or four counties, fed by springs and beautifully divided up between timber and prairie, and a country which is now fast settling. Go up the river some eight or ten miles and you come to the little Nemaha, a stream amply sufficient to drive mills and machinery. Go up a little higher, and you come to Camp Creek, another stream, upon which mills are already built. Go up higher and you come to Nebraska City, which is situated at the mouth of Roble creek, and a very handsome settlement. Up the Missouri river eight miles, and near the line which divides Otis and Clay counties, enters the beautiful Weeping [*121] Water. This is one of the largest *class of mill-streams, and enters into the Missouri at the village of Wioma. Rock and timber, with good spring water and rich soil, are abundant. Farther up is Rock creek, another beautiful stream. Coming to the mouth of the Platte, and running up that you come to Eight-mile creek. Running up thirty miles further, having crossed several small streams, you come to Salt creek or Saline river, entering into the Platte river from the South, and heading at or near the Kansas line. This is a beautiful stream which derives its name from the fact that salt springs are numerous along its banks—so much so that the water is strongly impregnated with salt. We next come to Elm creek. Go westward across the country to 102d or 103d degree and your line will cross the Republican and Great Fork of your own beautiful Kansas river. As you follow it up one hundred miles west, the Missouri river crosses the line and keeps on the north side of it for the distance of six miles due west. These are some of the streams and from them you can perhaps form some faint idea of the topographical beauty of that country. It is proper to observe that nearly every portion of this country has the best quality of limestone building rock.

We propose to give you seventy miles river front—west indefinitely—say 200 miles west; which would include 14,000 square miles, and a population of 15 to 20,000 industrious, energetic, liberty-loving people, who have subdued the prairie, erected manufactories, built towns and churches, established schools, and made the desert place to smile and the wilderness to blossom as the rose.

This, and all that we have and are, physically, socially, morally and politically, we present to you. We lay the boon at your feet and ask you to receive it in consideration of—what? in consideration of permitting us to unite our destiny with yours, for weal and for woe, that we may, in common with you, enjoy the rights of American citizens.

Coal has been found on the half-breed reserve, in Douglas and Johnson counties, and on Salt creek veins have been found five feet in thickness. Then again there are perhaps the very best facilities for the manufacture of salt in that region of country that can be found in the West. There are salt springs there between Lancaster and Crystal, that are said to vie in every particular with those of Syracuse in the State of New York. These waters have been analyzed and tested, and have proved to be equally as good as any. These springs are numerous and may also be found on the head of the little Nemaha. The most prominent of these springs are called Crystal, Lancaster, Syracuse and Salt springs. These afford water in inexhaustible quantities. The whole country roundabout is encrusted with salt, even it seems as though the very grass was encrusted by it around there for the distance of one-fourth or half a mile. Hence I might adduce an argument in favor of annexation upon this alone. It is expected of the General Government to give to every new State some dozen salt springs with a half dozen sections of land. I mention this that you may draw your own deductions. We cannot go into details.

Another reason why Kansas ought to be in favor of annexation is, that it will secure to her already large number of inhabitants an addition of fifteen or twenty thousand industrious, energetic and liberty-loving citizens—men who know their rights, and knowing dare maintain them; who appreciate the blessings of liberty and desire to enjoy them; who have gathered a little of this world's goods around them, and would be willing to assist in defraying the expenses of government. We have not asked that you should admit us to help you frame the government—if you can live under it, we can join in with you. We propose to surrender up this [*122] section of country with seventy-two miles* river front from north to south by forty-five miles back. We propose to surrender up this country, with our towns, farms, people, wealth, and say to you, "Take this, and extend your jurisdiction over it." In short, we propose to surrender to you all that we have and are, physically, morally, socially and politically—and what do we ask for it? We ask simply that we may be permitted to step upon the threshold as independent citizens of the Union, who exercise their rights as American freemen.

Can it be possible we will be any disadvantage to you? Methinks I hear some one say, "I don't know about that. I am afraid your politics ain't exactly right." I don't know, I honestly declare, what is the politics of that section of country. It has been said, that it was bad policy to send Democrats here to represent that people. I am a Democrat, and the people of that section of country have seen fit to send me here to lay this matter before you. They have also seen fit to send me to the Legislature twice, and in opposition to regular Democratic nominees. I profess to be one of the old Jackson kind of Democrats; and as such I believe the people ought to rule; and I would not ask you to do anything that

would place this question out of the hands of the people. But adverting to politics, I said, I did not know the politics of that section—and truthfully I say this, because parties never have been organized—the only questions have been sectional exclusively. I can give a history of this. At the first election Bird B. Chapman was opposed by Giddings, who was elected. Chapman was again opposed by Hiram B. Bennett, and was elected to Congress; but when the matter came up before the House of Representatives, they decided that Chapman ought to have the seat. If any gentleman recollects the history of this transaction, he will recollect that Bennett received a majority, but was declared not entitled to hold his seat in consequence of some informality in making the returns. At the third election Judge Ferguson was elected by the people from the south portion of the Territory in connection with the county which lies at the mouth of the Platte river, in order to break down the power at Omaha, irrespective of party. There is at Omaha a clique of men who call themselves the Democratic Central Committee, and another calling themselves the Republican Central Committee, and both have called Conventions for the purpose of nominating candidates for Congress. I believe the whole matter will be a perfect fizzle. Polities will be lost sight of in this local question again; and such must continue to be its history until this matter is settled. Never but one attempt was made to organize the Democratic party, and that was at this last election. A portion of the Democracy urged on by office-holders—we have a General Land Office there—and these men, who receive their authority from the General Government, being interested in putting forward Democracy, as they call it, called a Convention before the last election, and got out a set of candidates. The united opposition called a mass meeting and made unanimous nominations for the offices, composed of men independent of party, a majority of whom were Republicans, and took the field in opposition to the Democratic nominees and beat them. There is not a corporal's guard of Administration Democrats south of the Platte river. As to the complexion of our last Legislature, it was decidedly Republican and elected a Republican Speaker of the House—this same Bennett, who was once a candidate for Congress.

Gentlemen, it is perhaps necessary now (for I must be brief) that I should notice some of the objections urged against this movement. And, first, it has been urged that to take this section of country into the State of Kansas would make the State too large. Kansas is only in round numbers two hundred and ten miles from north to south. To extend west two hundred and fifty miles would make fifty-two thousand square miles. We propose to add fourteen thousand square miles; and then if [*123] *you go west two hundred miles, it would be making sixty-six thousand square miles as the size of the State, which is not unusually large. Minnesota has one hundred and forty-one thousand; California has one hundred and eighty-eight thousand; and Oregon has one hundred and seventy thousand. It will be but four degrees in length, and just as long as the State of Missouri. If you add this section of country it would be adding just one degree of north latitude to the mouth of the Platte River. This will make Kansas north and south precisely that of the State of Missouri—there will not be two miles difference. Upon the west you have an open boundary—it is indifferent to me whether you run to the Rocky Mountains, or only two hundred miles. You may take this section of country and go back two hundred miles, and be no larger than the State of Missouri, and not so large as Minnesota, California, and perhaps Wisconsin.

I have heard it urged that Nebraska was in debt, and you would have to help pay a portion of her debt. I assure you this is all gammon. Nebraska never has created a debt of any consequence. What have they done to create a debt? I know of nothing but the building of a bridge. This is the only work of internal improvement that I know the Territory to have been guilty of. I assure you, a late report of the Auditor showed that Territory in debt only seventeen thousand dollars. At the last session of the Legislature they passed a new and very stringent revenue law, and it is believed the Territory will not be in debt one cent. On the other hand, we are told Kansas is in debt, but we care not; we know here is a country which will be populous and wealthy, and the consideration of having to pay a few thousand dollars of debt, weighs not one particle. We don't ask you to help pay our debts.

Again, I have heard it objected that the annexation of Southern Nebraska may prevent the admission of Kansas at the next session of Congress. Now, gentlemen, let us look at this matter and see if it is possible. We propose that you shall memorialize Congress, that in the act for the admission of Kansas they will extend her boundaries so as to include that Territory. Suppose Congress fails to do this; she can admit you without. We don't seek to make this a condition precedent. We ask you, if you think it necessary, to refer this matter to a vote of the people, and if the people decide in favor of this project, send up the Memorial to Congress and ask it of them. If the people don't assent, keep your Memorial at home. If they do assent and Congress refuses, come into the Union with your old boundaries. What harm can it do you? It gives us a chance; and that is what we seek for. I am fully of opinion that if this provision was engrafted in your Constitution; if you declared that your boundaries should be thus and so, including the Platte River as one boundary (which would give you more population, and thus bring you within the requirements of the English bill) Congress would assent almost without a dissenting voice. Congress is getting tired of agitation, and they would be glad to receive Kansas upon any fair terms. The Kansas policy of the Administration has almost run the Democratic party out, and the Republican party, having effected all they desired, would feel themselves in duty bound to vote for her admission. I say, gentlemen, I am fully of the belief, that if this measure was incorporated—as the State of Iowa incorporated a provision that she would go to the Missouri River or not at all—I believe Congress would admit you. We don't ask you to take this ground, but we believe the boon is worth the trial.

You will recollect it is said, we have no precedent for this. I point you to the State of Iowa. The State of Iowa as first organized was bounded by a line running a little west of the capital—Fort Des Moines. The people declared her boundaries should extend to the Missouri River. Con- [*124] gress sent it back, declar*ing they had claimed too much territory. The people decided they would go there or not at all, and sent it back with the same boundary; and Congress receded. Thus I have no kind of doubt but that, if you would place this in your Constitution, Congress would admit you. But, as I said before, we don't seek to encumber you. We ask you to refer the matter to your own people, and if they and Congress are willing, what harm can it do? It does seem to me, gentlemen, you should look at this subject calmly and dispassionately, in the light of statesmanship, legislating as you are for future generations.

But suppose it was conceded that the Southern portion of Nebraska was Democratic; can any one of you by any prophetic ken tell what

politics it will have five years hence? Can you tell, even, what will be the issues, and what the parties in existence then? If you can, you are a better statesman and politician than I am, and I have been paying attention to these matters for twenty years past. I think it becomes you to give this matter a careful and statesmanlike consideration. A boon is within your reach: all that we have and are we lay at your feet and ask you to take it up, simply in consideration that we shall enjoy the same privileges you enjoy.

Some gentlemen believe they can take this question up some other time. I have heard the question of the Platte purchase alluded to: but that is far from being a parallel case. It was attached to the State of Missouri after it had been organized some ten or fifteen years, when it was a wild, unknown territory, containing no people to act for themselves. Here the case is different. We have fifteen or twenty thousand people. After we have done our duty in this regard, if the Convention in Kansas refuse to do anything to help us out of our predicament, we shall think that they have no sympathy with us; our people may refuse afterward to co-operate with you, and the golden opportunity having slipped by you once, it may be gone forever. Besides the influence of emigration, no man can tell what it will bring about five years hence. When you may be ready there is no man can tell by what influences these people may be surrounded. It does seem to me, in the language of the preacher, that "now is the accepted time and now is the day of salvation." We feel that this is the day of salvation for us. We feel, over a large extent of country that our liberties are to be ground down by the heel of oppression worse than they have been, because we know this population will increase much more rapidly than ours. We have been able to make a good fight so far, but have not much hope for the future.

Gentlemen, we do hope your action will be such that we will not have to go back and tell our constituents that the people of Kansas think themselves as wealthy, prosperous and populous as she wants to be; that our friendship and sympathy has been in vain; that we have offered to come under the jurisdiction of that liberty-loving people, and they have spurned us; that Kansas has voluntarily refused to extend her jurisdiction over as fair a land as the sun ever shone on, and over a people anxious as themselves to enjoy the rights of freemen. It is dependent upon your action, gentlemen.

And now let me ask these delegates what they will say to their constituents. You will say to them, "We might have extended our jurisdiction seventy odd miles north, over a fertile country, containing over twenty thousand inhabitants, who have built churches, schoolhouses and mills, and who desire to enjoy the institutions and immunities of American citizens, but—but—but—but—but what?" say your constituents: "We were afraid they would not vote right!" Is this the story you desire to tell your constituents? If so, I predict the reckoning will be made with many of you before ten years shall roll round. I think I see a disposition on the part of [*125] this intelligent Convention to *give us a fair chance, by referring this matter to the people or to Congress. Congress made a great mistake, but that can now be remedied. Let it not now be said that this intelligent Convention, acting for the people, have made a greater mistake—which may be irremediable. The golden opportunity, once lost, may never occur again.

Mr. TAYLOR. Mr. Chairman, permit me to return to the learned and honorable President of this honorable body my sincere thanks for the

courteous and kind reception which has been given the delegation from southern Nebraska. And permit me to return to this Convention my thanks for the distinguished consideration they have shown the people I have the honor and pleasure, in part, to represent on this occasion. It is to be hoped that the acquaintance which we have formed here may improve as time shall roll on.

We of the Territories of Kansas and southern Nebraska are one people, because we have a common ancestry. We are one people in feeling, in interest, and in sympathy. We came here, on behalf of the people of southern Nebraska, to offer an inheritance to the people of Kansas; and all the people of Kansas have to do upon this occasion is for the members of this Convention to say that they will accept of that rich inheritance. Where in the history of the world can you find a parallel to this? Go search the musty records of the history of ancient times, and you cannot find a single parallel to the case that is presented here to-day. A people organized under different governments, and of contiguous territory, coming forward and voluntarily proposing to unite with this people, and yet we are told the question is one which requires consideration.

Why is it that the people of southern Nebraska desire to unite with the people of Kansas? Their territorial governments were created by virtue of the same act; but the power that ruled the nation at that time had something else in view than the good of the people who inhabited the territories created by this act; and hence an imaginary line was made between the territories on the 40th degree of north latitude, an artificial line, a line south of the line dividing the free State of Iowa and the slave State of Missouri, a line which made the territory of Kansas less, from its extreme southern to its northern boundary, than the slave State of Missouri. Why was it? Why was it? There can be but one answer, and an ingenious mind is bothered to find but one. The object was by legislation, and acts which would be brought into requisition, to make a slave State of Kansas; but they have failed in their undertaking. And what has this line done? It has not only created discord in Nebraska, but has tended to bring about the civil wars you have had in this country. That Kansas-Nebraska bill had a stump speech inserted into it for the purpose of pacifying the mind—the clause that the people have the right to regulate their own domestic institutions—but the government that asserted the libel retained the power to appoint the Governor and Judges, giving the Governor as much power as a majority of the Legislature. How could a majority of the people regulate their own institutions by the will of the majority, when they have placed over them a Governor who is a representative of the Administration, and Judges who are representatives of the power at Washington. The one having the veto power upon the Legislature, and the others adjudicating upon its acts. They could not do it, and the declaration in the organic act was false. But what has this line done? It has distracted both territories, and our people have sorely felt the effect of this artificial line.

Our people feel the necessity of a State government, and desire to put a stop to federal intervention. Federal intervention has amounted to actual war in our country; it has been a struggle between the people and the government at Washington, to see who shall control and regulate the domestic institutions of the territory of Nebraska. Our people are an in-
[*126] *telligent people, and they feel the necessity of an early State government, because they have a desire to control the school fund for the education of their children. Our people are impressed that wealth and

emigration alike prefer the stability of a State government to the chances and changes of such a territorial government as we have now in Kansas and Nebraska. There is a large and fertile country back of the settlement where we live of as fine land as there is in the Union; and we know that as soon as we have a State government the tide of emigration will flow into the beautiful State of Kansas; and hence it is that our people desire to become an integral portion of Kansas.

But, say some gentlemen, we object to its coming in because it is Democratic. Sir, I deny the proposition. Except in the election of 1850 [1856?], and I undertake to say I am as familiar with public sentiment there as any other man, there has been a large majority of them Republicans. In 1858 a Republican was elected from Cass county to the Legislature. In Oto county the party lines were drawn; the district judge mounted the stump and took position against the nominees of the people. We had Majors, Russell & Co., millionaires and contractors with the government, to contend against, but it resulted in the defeat of the nominees of the Democratic party. There was a Republican elected to the council (Mr. Reeves) from Oto and Cass counties. One Republican from Oto and one from the two counties having a floating candidate, both solid Republicans were elected to the Legislature, and by virtue of this we had a majority in the last Legislature which assembled in the territory. We elected a Republican printer as we had a right to do, but the Secretary of the Territory assumed power and control over the printing and said; while the people might go through with the farce of electing delegates they had no right to say by whom the laws which they enacted should be printed. This question was laid before the powers at Washington, and they have dodged it, having never decided it to this day. So, gentlemen of the Convention, there is nothing political in this question. This question was not made a political issue in the discussion before our people. The people of all parties are for it there; there is not a corporal's guard against it, because they feel that to put a stop to federal intervention will conduce to their prosperity and peace in the future. I undertake to say, that the northern portions of this Territory, if we can draw any deductions from observation and from experience, will always be, as far as free-soil sentiment is concerned, more thoroughly free-soil than the southern portion. It may not hold good to-day, but it will hold good as a general proposition. Look at northern Ohio, Indiana, Illinois and Iowa, and the proposition is demonstrated. Emigration to the west pursues the parallels of latitude; and while in this latitude they will come from southern Indiana, Illinois, and other places; further north, they come from further north; and mark my prediction to-day, if that country should become a part of Kansas, when Kansas shall be entitled to, say perhaps five representatives in Congress, the northern part will be more thoroughly anti-slavery and free-soil than the southern part.

But, gentlemen of the Convention, this question rises above party. I see around me here young men who are ambitious of obtaining a character and transmitting to posterity a name. And I would say to those young men if they desire honors, look at this question above party considerations, and see whether it will not advantage Kansas as she is, and as she will be when years roll on. I say there is no parallel to this case. The acquisition of Louisiana by Jefferson was not more important to the general government, than is the acquisition of southern Nebraska to the very Territory upon which we stand. The acquisition of the Platte purchase to Missouri was not more important to that State, than is the acquisition of this Nebraska country to Kansas; and Thomas H. Benton, after having served

[*127] thirty years in the Senate of *the United States, looking back, contemplated the act of annexation of the South Platte to Missouri with more pride and satisfaction than any other act in his whole life. The acquisition of territory lying west of the Territorial government of Iowa was not more important to that State than is the acquisition of this country to Kansas. Add it on, and what do we have? You have Kansas, a compact agricultural State, capable of containing a more vast population than any other similar section of country. Add on the fourteen thousand square miles of agricultural land, which we propose to give you, and you have a State whose agricultural area is still less than California, Minnesota, Oregon or Texas, and less in length from north to south than the State east of you.

But, says some gentleman who objects to this: If Southern Nebraska is added on, it will result in striking off a portion of Southern Kansas to the Cherokee country, and, by virtue of pro-slavery legislation and fraud, a new slave State will be made south of Kansas. It is impossible. It is impossible, because the next Congress is Republican. It is impossible, because the next Congress will like to get the Kansas question out of the next Presidential contest. It is impossible, because Congress has never in the history of the nation attempted to dismember a Territory without the consent of those who are interested in changing the line. It takes two or more to make a contract. When Kansas applies for admission, Congress must accept the terms she proposes to come in on, or reject them and propose others. It must be acted upon by the people of Kansas before any limitation can be effected. The people of Kansas would never consent to the dismemberment of any part or parcel of her Territory, between the northern and southern boundary at least. And there is no instance on record where such a thing was ever attempted. It would be an act of despotism for Congress which would merit and receive the unqualified censure of the entire nation. It is impossible, for the next House of Representatives will be strongly Republican and would not permit it. Anti-Lecompton Democrats would oppose it. Such an attempt would have no precedent or parallel in the annals of the nation. Slavery propagandists would not dare to raise a question or agitate a scheme like this on the eve of a hotly contested Presidential election—for they are becoming conscious of their misery, and certain defeat looks them full in the face. It will not be attempted, for Kansas, with the southern portion of Nebraska added on to her, would be less from the northern boundary to the southern boundary than the State of Missouri—than the State of Illinois—than any of the Western States. Sir, Kansas would contain, with the addition of Southern Nebraska, not more than eighty thousand square miles. The whole extent of country proposed to be annexed does not include more than fourteen thousand square miles, and if you only run west to the one hundred and second degree of longitude, that will make Kansas only eighty thousand square miles—while Oregon contains one hundred and seventy thousand two hundred and thirty square miles—Minnesota, one hundred and forty-one thousand eight hundred and thirty-nine square miles—California, one hundred and eighty-eight thousand nine hundred and eighty-two square miles. Then what necessity, or what reason could there be advanced, for dividing Kansas? None whatever. Sir, if you do not accept of the rich inheritance now offered, you can never get it. And the fortieth parallel will remain a monument of the wrongdoing and fraud of the slave power of 1854. When Kansas and Nebraska were called into being by Congress, it was to the great injury of the prosperity and progress of the people of Kansas and Southern

Nebraska alike. If the people of Kansas will take steps to annex that country, and succeed, and the future State of Kansas should get tired of Southern Nebraska, they can throw it away as worthless. Then the candor of members must concede that this objection "melts away [*128] *like frost-work in the morning ray." Then, is it not impossible that this southern country can be stricken off to the Cherokee country? I think it is.

It is objected that annexation will increase the indebtedness of the people of Kansas. This, gentlemen, is news to me. Nebraska, with a territory larger than all New England, has never done anything to create a debt; and her entire indebtedness does not amount to more than seventeen thousand dollars. The levy for 1859, will more than pay off this indebtedness of the Territory. Sir, the annexation of Southern Nebraska would have the opposite effect, and would actually lighten the burden of taxation in the State of Kansas.

Another objection is, that annexation would introduce a foreign element into Kansas. Is there anything in this objection? Is it not the merest quibble? Sir, this is equally futile. A foreign element! The people of Southern Nebraska are descended from the same pilgrim fathers that gave birth to this great republican government of ours. And when the people of Kansas were cut off from all northern connection by virtue of the operation of the fortieth parallel which we now seek to change—and when it was necessary that Kansas should have aid in fighting for freedom—the people of Southern Nebraska sympathized deeply with them, and many of our citizens participated in the war. The friendship of the people of Southern Nebraska was extended to Gen. Lane and his army, who could only get into Kansas by coming through Iowa and Southern Nebraska. Gen. Lane built a fort within two miles of Nebraska City, and his troops were quartered there several weeks. And that fort yet exists as a monument of the cause for which he contended. Sir, we are one people in feeling, interest and sympathy, and should have a common destiny. Then do not urge that we are a foreign people. It is not true. The facts put to shame an objection like this.

Again, it is urged as an objection to this measure, that it would affect the railroad interest of Kansas, by adding to the country north of the Kansas River. This objection is based upon the hypothesis that the Kansas River is the geographical centre, and this would destroy that centre. A view of the map will illustrate the fact to be, that the addition of this country of fourteen thousand square miles—still the country south of the Platte River —is greater than the country north, and it would make the Kansas Valley the great thoroughfare for future railroad systems. Are gentlemen living upon the valley of the Kansas opposed to that valley becoming the great thoroughfare for the nations of the earth across this Territory to the gold mines and thence to the Pacific coast? If you are opposed to it, then vote against Nebraska becoming an integral part of your Territory; because it fixes the destiny of the great Pacific Railroad passing up the Kaw River Valley. This argument, that it would destroy the centrality of Kansas, is a new argument to us. We never had to meet that argument in the discussion of the question before our people; but it was urged there, by those who first objected, that Leavenworth was the first great Metropolis of Kansas, and she would monopolize all the benefit. We answered this by saying, that Kansas would be a compact State; that legislation would fall like the dews of heaven, and if it did not combinations would be formed which would equalize legislation; and the people were satisfied. The scare-crow was not, that the Southern portion would be opposed to us, but that Leavenworth

city would be antagonistic to us. Here in this Convention we found the opposite to be the case, and consequently [we] have to meet the converse of this question. Sir, does not the history of State legislation demonstrate that where State legislation is unequal and unjust, combinations are formed which equalize the whole thing? But with Southern Nebraska added on to [*129] Kansas—the *Kansas River is then only the geographical centre. All sections can unite on the centre in constructing a system of railroads up the fertile and great valley of the Kansas River—which, from its central, geographical and topographical position, is unequalled for the construction of railroads. The capital must be located on the Kansas [River]—unless you should remain with your present boundaries on the north—it may then go farther south. But our people care little or nothing about the capital. I hope, however, there may never be any sectional feeling in Kansas. There can be but little of this sort of feeling if annexation takes place, for this reason: Kansas will be a compact agricultural State, susceptible of a very dense population.

Again, it is urged as an objection, that it would hazard the admission of Kansas into the Union at the next Congress. Gentlemen of the Convention, you seem to manifest, from all that I have seen and heard, a remarkable fear that you will not be admitted. Why was Kansas not admitted when she applied before? The answer is this: because Congress adopted an odious and unjust rule requiring that Kansas should have a given number of population: she was excluded because she had not the requisite population, if I understand it. Now does she not gain an additional population, and a territorial domain of vast wealth and importance to the future State of Kansas? Then it would seem, if I am correct, in saying if Kansas has to be kept out of the Union it would be because she has not population enough. This annexation would secure, and put it beyond the possibility of a doubt. Then I do not think that the annexation of this country is objectionable because it would hazard the admission of Kansas into the Union. Of this, however, you will have to decide.

Again, it is urged that it would injure Nebraska and keep back her admission into the Union. Sir, it would be the making of Nebraska Territory. As that Territory was organized by the act of 1856, her settlements are disconnected; and she never can be a compact State, having a common interest; but there will always be as there has been so far, a sectional feeling, and discord to a greater or less extent will prevail. Take off this southern portion, and still she contains territory enough for five or six States of ordinary size. If this southern territory were added on to Kansas, it would make Nebraska a better State. I think she never can be organized as she is. Then there is nothing in this objection.

Again, it is urged that this Convention has no authority to alter the boundaries of the Territory. We have but one precedent that I know of, which would authorize us, and that is the case of Iowa. But Congress, in the organic act, reserves the power to change and alter the boundaries of the Territory. This power is claimed to be like the power in a court of equity. There must be some person come forward, ask and exhibit reasons why it should be done, before Congress would exercise this power. Its exercise upon any other principle, would be wrong. Congress can only exercise the power, with discretion, upon application of the people; hence Nebraska comes here and urges the people of Kansas to petition Congress to do what it should have done in 1854.

Strange as it may be, it seems that every Democrat in this Convention that I am acquainted with, sympathizes in this measure; and why is it? Because they know it would promote the common interest of both sections

of country. It will not promote their political views, I tell them here to-day. Is it for the purpose of driving Republicans from the support of this measure, which I believe the people of Kansas would endorse, if they had an opportunity? I ask gentlemen here who intend to vote against petitioning Congress to do what would redound to the prosperity of both sections of the country to consider—to consider—what they will tell their constituents when they return home. Will you tell them: "We re-
[*130] *jected a rich inheritance, because we are rich and prosperous now?" Should there not flow into the Territory of Kansas in 1860 the tide of western emigration, the people will feel the burden of taxation; and when that time comes, if you tell them, "We refused this rich inheritance because we were already rich enough," I think it would be a poor excuse to your constituents. Increasing the Territory would not increase the taxation of the State of Kansas; but some gentleman has said to me that the expenditures of government increase in the same ratio with the extent of boundaries. I think he will find it a difficult task to maintain this proposition.

Having given some few of the many arguments in favor of the annexation of Southern Nebraska, and answered all the objections against the measure, I will conclude by urging upon the consideration of this Convention that if the Kansas Constitutional Convention does all in its power to extend the boundary line to the Nebraska river, it will increase the chances of the admission of Kansas as an independent and sovereign State of this Union; because it removes the quibbles and opposition which kept her out of the Union at the last session of Congress. It gives Kansas an additional population and wealth—which would lighten the burden of taxation. But again: The lands in Kansas, for many miles back, are settled and have been purchased of the United States. By annexation you get a fine agricultural country, which would give you more government lands from which to select railroad grants. It would give Kansas good agricultural lands from which she could select her quota of school lands; which, under and by virtue of the operation of the Act of Congress of the 3d of March, A. D. 1857, has been purchased under the Act of 4th of Sept., 1841. Again: Kansas will get 5 per cent. of the gross proceeds of the sale of the public lands within her borders after admission. Will this be no source of revenue to Kansas? Why, there are five millions of acres of land in the South Platte country unsold—good agricultural land. Ten dollars on every one hundred and sixty acres would amount to five hundred thousand dollars—to say nothing about school lands and railroad grants—as the benefits Kansas will derive from that source alone.

Then, gentlemen of the Convention, shall I go back to my constituents in Southern Nebraska and say to them that the people in Kansas, by their delegates in Convention, have declined to accept of the rich inheritance you offered them; and that the intelligent gentlemen constituting the Kansas Constitutional Convention have said that Kansas is as rich and prosperous as she desires to be? And will you, gentlemen, go back to your constituents and tell them that you would have taken steps to secure the rich inheritance that was offered by the people of the South Platte, but—but—what? Ah! gentlemen, gentlemen, there is no good reason. Now is the golden opportunity. If neglected by you the weal and good destiny of the people of Kansas and of South Nebraska are impeded through all coming time; for each successive year will only demonstrate the wisdom and policy of the measure. Remember that if you do take steps to include Southern Nebraska within the boundaries of Kansas, and

succeed, and you should hereafter have cause to regret the step, Kansas can cede again to the General Government any portion of the country within her boundaries—but if neglected now, she never can acquire additional territory and particularly Southern Nebraska, because Nebraska will take care of herself and form other associations and combinations.

Mr. Chairman and gentlemen, as it is extremely warm—almost impossible to speak—I must give way.

Mr. McDOWELL. I move that the Committee rise.

The motion was agreed to.

[*131] *The committee accordingly arose and reported progress.

PREAMBLE AND BILL OF RIGHTS.

Mr. McDOWELL. I move we take up the first section of the article on Preamble and Bill of Rights.

Mr. THACHER. I suggest whether that was not set for Monday morning.

The PRESIDENT. The Secretary informs the Chair it was.

The motion was agreed to and the preamble was read.

Mr. PARKS. Mr. President, I can make nothing out of this preamble. It seems to be not only absurd but untrue. I cannot separate the idea of "men" and "existence." I object to adopting anything that will read so absurdly. I move to strike out the words "that existence" and insert "woman."

Mr. BLUNT. I would ask if the whole preamble is under consideration?

The PRESIDENT. The entire preamble is under consideration—the first section particularly.

Mr. BLUNT. I move to strike out the whole Preamble and insert the following:

PREAMBLE.

"We, the people of Kansas, acknowledging, with grateful hearts, the goodness of the great Ruler of the universe in affording us an opportunity of peaceably, without fraud or violence, organizing a civil government for ourselves and our posterity, do ordain and establish this Constitution as the fundamental law of a free and independent State by the name and style of the State of Kansas, to be bounded as follows, to-wit:

On motion of Mr. STINSON, the substitute was laid on the table.

Mr. THACHER. Mr. President, I move to strike out the first two paragraphs, because I believe the assertion of general truth therein contained, is out of place. I cannot conceive of a gift without a donee and donor: nor I cannot conceive the idea of a man without existence.

Mr. WRIGLEY. I move to strike out the word "with" wherever it occurs in the second paragraph, and ask for the reading of it as it would be with this amendment.

The Secretary read the paragraph as amended. It is as follows:

"The body politic is formed by a voluntary association of individuals; it is a community in covenant, where the whole people treats each citizen and each citizen treats the whole people, that all shall be governed by active laws for the common good."

Mr. THACHER. I hope if we do not strike out the first two paragraphs the amendment will prevail.

Mr. McDOWELL. Mr. President, I have an amendment to offer to the one proposed by the gentleman from Douglas, which I hope will be read.

The Secretary read it as follows:

"We the delegates to this Constitutional Convention, grateful to our constituents for the high honor they have conferred upon us in electing us to this responsible though not lucrative office, and satisfied that we came here without fraud or violence, or any species of political sculduggery, and legislating not only for the millions that come after us, but for ourselves (desirous of a speedy completion of our labors, as scrip is not received in Wyandotte City for board) and believing, as we do, in the individualism of the social forces, and the various and complicated ramifications of the isothermal line over the beautiful prairies and broad bottoms of this fair territory, where the wild Indian once roamed and the wolf dug his hole in the ground—in no complicity with the evil one, and prompted by the highest impulsions of a perfect political philosophy, do hereby make, appoint, constitute, and set up the following Constitution:"

[*132] *Mr. STINSON. This preamble, which has been drawn up, not only by the superior intelligence of the Leavenworth delegation united, but in concert with some of the other distinguished men of the country, should have a place in the Constitution. I think it is original; and that is something that is not claimed for the one presented by the committee.

Mr. HUTCHINSON. Mr. President, I was not intending to say a word, but if I can have the indulgence of the Convention, I have this remark to make upon the report under consideration. There is nothing claimed by the Committee on the ground of originality. The preamble was copied almost entirely, word for word, from the Massachusetts Constitution. In 1853 that State held a convention to revise their Constitution. That Convention was composed of three or four hundred members, among whom were some of the very best men of the State, such as Rantoul, Cushing, Sumner, Wilson, Burlingame, and those who have been members of Congress, to the number of ten or fifteen. Chas. Sumner was chairman of the Committee on Preamble and Bill of Rights. The Convention held a session of seventy-two days, and during that time the committee had between twenty and twenty-five sessions of several hours in length, at which a great amount of debate was had as to the propriety of preserving their former Bill of Rights, which was drafted by John Adams. At the conclusion of this series of twenty sessions, it was nearly a unanimous vote in that committee, of which Charles Sumner was chairman, to adopt the whole Preamble as made by John Adams, and which is copied nearly word for word in this report. Gentlemen let it be, as lacking sense or application, we don't claim it as original.

Mr. MCDOWELL. Mr. President, I withdraw my substitute.

It was withdrawn accordingly.

Mr. STINSON offered the following preamble as a substitute for the first three paragraphs of the preamble as reported, except the boundary clauses:

"We, the people of the Territory of Kansas, grateful to Almighty God for the civil and religious privileges vouchsafed to us, to insure the full and perfect enjoyment of our rights as American citizens, do hereby ordain and establish this Constitution of the State of Kansas."

The substitute was adopted.

Mr. THACHER. I move to strike out the word "Territory" in the first line and insert the word "State."

Mr. STINSON. I will state that that is the usual form in all the Constitutions I have examined.

Mr. SLOUGH. I suppose it would be in order to move the postponement of the further consideration of this subject?

The PRESIDENT. It is.

Mr. SLOUGH. I move then that its further consideration be postponed till Monday next.

Mr. THACHER. I would amend by saying to-morrow.

Mr. SLOUGH. I would suggest the reason I before offered. There will be a number of members absent to-morrow; we will be compelled by the preamble to fix the boundaries, in which they will take a great interest, and in courtesy to them I made the motion.

Mr. THACHER. I say this is the heated time of the year, and I protest against being kept here any longer than is necessary.

Mr. GRIFFITH. If we have other business to go on with, I have no objection to the postponement. We want to get through here and go home to attend to home matters.

The PRESIDENT. Are there any committees who will be prepared to report to-morrow? I think there are one or two other reports not acted upon.

Mr. J. BLOOD. I don't know of any other reports. There is one on schedule, but we disposed of that till Monday morning.

[*133] *Mr. SLOUGH. The only question over which there can be any discussion is the boundary; and if gentlemen will consent to that portion of the report being postponed, I will modify my motion to that effect.

The PRESIDENT. Does the gentleman from Douglas withdraw his amendment?

Mr. THACHER. I do not. I protest against being kept here these hot days.

The yeas and nays were then demanded on this amendment, and being ordered and taken, resulted—yeas 28, nays 20—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Dutton, Graham, Griffith, Hutchinson, Hanway, Hoffman, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Wrigley, and Williams—28.

NAYS—Messrs. Brown, Barton, Foster, Forman, Greer, Hipple, Hubbard, Houston, Moore, McDowell, McCune, McClelland, Palmer, Parks, Porter, Slough, Stinson, Stiarwalt, J. Wright, and T. S. Wright—20.

So the amendment to postpone till to-morrow was adopted.

Mr. GRAHAM. I rise for the purpose of moving a reconsideration of the vote by which the first section of the article on County and Township organization was adopted.

The PRESIDENT. The gentleman is not in order. The question is on the postponement of this special order.

Mr. MCDOWELL. I move to further amend by proceeding to examine the bill of rights now.

The motion was rejected.

The original motion to postpone as amended was adopted; and so the report was made the special order for to-morrow morning.

COUNTY SEATS AND COUNTY LINES.

Mr. GRAHAM. I now make my motion to reconsider the vote on the passage of the first section of the report of the Committee on County and Township organization.

The PRESIDENT. The report is in the hands of the Committee on Phraseology and Arrangement. In order to read it, you will have to make a motion to recall it.

Mr. THACHER. I make the motion.

A motion to adjourn was made; and, upon a division, the Secretary reported—affirmative 20, negative 20.

The PRESIDENT. The Convention does not adjourn.

Mr. Thacher's motion prevailed, and the report was recalled.

Mr. GRAHAM. I renew my motion to reconsider.

The motion was agreed to and the first section was read.

Mr. GRAHAM moved to amend by adding the following: "but the Legislature shall not change any county seat without the consent of a majority of the people of the county."

Mr. THACHER. I suggest to the gentleman to strike out the words "the Legislature."

Mr. GRAHAM. I accept.

Mr McCLELLAND. I move to insert "County lines" after the word "seats."

Mr. THACHER. I move that the amendment of the gentleman from Leavenworth lie on the table.

The motion was agreed to.

The amendment of Mr. Graham was then adopted.

Mr. BURRIS. I move to amend by adding the words "shall not change the boundaries of counties without the consent of the people of a majority of the counties interested."

Mr. THACHER. I would ask if that amendment has not already been placed upon the table.

Mr. WRIGLEY. I think it unfair in the gentleman to avail himself of the fact that it has already been laid upon the table. I think it would be but just for us to obtain a fair expression.

The PRESIDENT. In the opinion of the chair the two propositions are not identical.

A motion was made to lay it on the table; the yeas and nays were [*134] demanded, and being *ordered and taken resulted—yeas 17, nays 33—as follows:

YEAS—Messrs. Burnett, Blunt, Brown, J. Blood, N. C. Blood, Crocker, Greer, Hutchinson, Hanway, Hoffman, Houston, Lillie, Preston, Stokes, Thacher, Townsend, and Williams—17.

NAYS—Messrs. Arthur, Barton, Burris, Dutton, Foster, Forman, Graham, Griffith, Hipple, Hubbard, Ingalls, Kingman, Lamb, Middleton, Moore, McDowell, McCune, McClelland, McCullough, Palmer, Parks, Porter, Ritchie, Ross, Signor, Slough, Stinson, Stiarwalt, Simpson, J. Wright, Wrigley, and T. S. Wright—33.

So the amendment was not laid on the table.

Mr. J. BLOOD. Mr. President, I am opposed to restricting the Legislature in its action as far as respects lines of counties in that manner. I think I can imagine an occasion where great injustice can be done to the minorities of counties under such a provision. I will take one case as an illustration. The county of Leavenworth extends from the Missouri to the Kansas river, a distance of over thirty miles. Douglas lies south of Leav-

enworth on the south side of the Kansas river, with its county seat upon the river. Upon the opposite side of the river there are not settlements at the present time, but probably will be, and to say that the people residing in the southern part of Leavenworth county with the county seat of Douglas county in sight, should not be allowed to have the line changed without the consent of Leavenworth county, would be doing a great injustice to that minority—compelling them to go thirty miles to their county seat. To insert in the Constitution a clause that would prevent the Legislature from doing justice, it seems to me would be doing very wrong. I can see no particular object in it. I don't know what object gentlemen have for proposing such amendments, and would like to hear.

Mr. Ross. I move to strike out all that relates to county lines.

The PRESIDENT. A proposition of a similar nature was voted down this morning.

Mr. KINGMAN. Mr. President, I don't believe we can get it in shape to vote upon it at all to-night. I move that we adjourn.

The motion was agreed to.

And at 5:30 o'clock the Convention adjourned till 9 o'clock to-morrow morning.

LAWRENCE, August 3d, 1859.

Editor Commercial Gazette:

DEAR SIR: In your daily of the 29th July, in the report of the proceedings of the Convention on the article on education, July 14th, I am represented as having said, in opposition to the amendment offered by Mr. Stinson of Leavenworth, that there be added to section 2d of that article the words "but no negro or mulatto pupils shall be admitted to such schools."

"Mr. BURRIS. It is an old maxim that beggars should not be choosers. We are talking about a fund that may be given us by the general government. What claim has one class of men to the common benefits of this country above that of each and all classes? If any gentleman can point out any view or precedent that can be recognized in law or justice we will yield the point. We must proceed upon the supposition that the blacks are to live in common with the whites. It is supposed that they are to mingle and live together with us. I ask if it is desirable to see that class of citizens growing up in entire ignorance? If they are to live in the territory they should be made as intelligent and as moral as education can make them. With these considerations I am willing to vote."

How your reporter could have attributed the above remarks to me it is difficult to determine, as the doctrine therein set forth is in direct opposition to the views which I have always entertained, and always advocated; and I never did, either in the Convention or out of it, utter a sin-
[*135] tence, word or *syllable which could possibly be construed to favor the doctrine therein contended for. The truth is, that in the debate on that article of the Constitution on the 14th inst., I took no part whatever except to vote, and my vote was in direct opposition to the arguments which I am represented as having offered.

By giving the foregoing an insertion in the next issue of your paper and also in the pamphlet edition of the debates of the Constitutional Convention you will confer a favor.

Respectfully, JOHN J. BURRIS.

NOTE.—By way of explanation, it should be stated, perhaps, that this reference is to the proceedings of July 14th—the first day's work of the assistant reporter, W. H. Drapier, and when he would be most liable to mistake *the names* of debatants. It is an error that cannot be corrected any further. A. E. DRAPIER, Official Reporter.

SATURDAY, July 16, 1859.

The Convention met at 9 o'clock.

Prayer by the chaplain.

The PRESIDENT. I am requested by the chairman of the committee on printing to say that any corrections of the official report of proceedings, in order to be incorporated in the pamphlet edition, must be made before ten o'clock; after that time no corrections can be made.

The roll was called, and the secretary reported as not answering to their names—Messrs. Brown, Hipple, Hubbard, May, Perry, Slough, Stinson and Simpson.

CORRECTION OF THE JOURNAL.

The journal of yesterday was read.

Mr. FOSTER. Mr. President, in the vote taken on the substitute offered by the gentleman from Douglas (Mr. Thacher) that none of the provisions of the article on education should be extended to negroes or mulattoes, I am recorded as voting in the affirmative on laying it on the table. I did not so vote, or was mistaken as to what I was voting on. I desired to vote for the substitute, and not to table it. The vote does not stand as I desire it.

Mr. LILLIE. My motion is reported as being only to strike out the word "agriculture," when the fact is, my motion was to strike out the word "agriculture" and insert "industrial."

COUNTY SEATS AND COUNTY LINES.

The PRESIDENT. The clerk will make the corrections. The business before the Convention at the hour of adjournment, was the consideration of the article on county and township business. An amendment to section one was pending, proposed by the gentleman from Wabaunsee (Mr. Ross). The amendment was to strike out all in the section relating to county lines.

Mr. LILLIE. Mr. President, I offer the following substitute for the amendment:

"Provision shall be made by law for erecting new counties and the organization thereof, for locating county seats, and for establishing and changing county lines; *provided*, that no portion of an organized county shall be attached to or stricken off from another without the consent of a majority of the legal voters residing thereon."

Mr. THACHER. I suppose it would rather be a substitute for the whole section.

Mr. LILLIE. I offer it as a substitute for the whole section.

Mr. GRIFFITH. Mr. President, the section is precisely what we want—no more nor no less. It is all we desire. It is a sufficient protection to counties that have already established county seats and built their county buildings, and leaves an opportunity for proper clippings. If we pass the

substitute, it will be impossible to clip the counties. The people of large counties will never consent to have any portion of their territory taken from them, not even when it is necessary for the convenience of the people [*136] residing thereon. I suppose *there are cases where persons are obliged to go twenty miles to their county seat; when, if stricken off, they might not be compelled to go more than five. If we pass the substitute, it would be a bar to all clipping, because those principally interested generally cannot get the vote of a majority. I prefer it as it now stands.

Mr. LILLIE. If the question be taken upon the article as it stands on the secretary's desk, I will withdraw my substitute.

Mr. THACHER. I believe the article as read by the clerk—as it now stands—is just what we all want. I hope the article will be allowed to remain as it is.

Mr. BURRIS. Mr. President, I thought of offering a substitute, but I have an amendment here which will meet the end I desire to reach. The amendment will be this:

"Nor organize a new county or change the lines of counties already existing so as to embrace an area of less than four hundred and thirty-two square miles."

The PRESIDENT. It is suggested that members having corrections to make in the official reports will hand them to the messengers or sergeant-at-arms.

Mr. BLUNT. Mr. President, I am satisfied with the section as it now stands. I think we are manifesting a great want of confidence in our future legislation [Legislature?]. If we are to carry out all the detai's of county matters, we had better abolish our Legislature entirely, and go to legislating for the interests of the people of the Territory. I think this matter should be left to the Legislature. Every gentleman who has given this matter any thought knows it is rather a complicated question, and surrounded by a good many difficulties. I think we should certainly have sufficient confidence in those who are to make our statutes and provide for the welfare of our future State, to trust this matter in their hands. I shall vote against this motion, but for the original amendment.

Mr. BURRIS. Mr. President, I do not understand that my amendment proposes to legislate. It is merely a restriction upon the Legislature, just such as we have incorporated in other articles of the Constitution. My understanding is, that the design of a Constitution is to establish the fundamental principles upon which the Legislature of the State is based and restricted. The substance of my amendment is the same as is that incorporated in the Constitution of the State of Iowa, with which I am more familiar than with any other State Constitution. There the Legislature is prohibited from organizing any new counties with an area of less than eighteen by twenty-four miles; and I will state that I know that provision has given entire satisfaction to the people of that State. Three-fourths of the counties in Iowa are twenty-four miles square, and one-fourth of them are eighteen by twenty-four. There it is divided into townships, as it is here. The country is very similar to this. The smallest counties are eighteen by twenty-four miles square, and that is the smallest that can be made under the Constitution. I think this is a proper restriction; and eighteen by twenty-four is as small as a county ought to be. I first thought of proposing twenty-four miles square, but sometimes it would not be so convenient to the people. I think there would be no

necessity, in any part of the Territory, to organize a county of less area than four hundred and thirty-two square miles. Inasmuch as it works to the satisfaction of all in Iowa, I have no doubt but that it would be satisfactory here. I hope the amendment will be adopted.

Mr. KINGMAN. Mr. President, I believe the Convention is ready for the question, but I am not right certain I am. I wish to state that I have a personal and local interest in this question, and from that consideration I may be driven to wrong conclusions. Last winter we found that we were likely to acquire a Territory which would change the whole face of our [*137] county contrary to the wish*es of four-fifths of the residents of the county; but by sending a special messenger to the Legislature we found out and headed off the scheme. I propose to offer an amendment to stop that constant change of county lines and breaking up of county seats. It is this:

"The Legislature may provide by law for the organization of new counties, locating county seats, and the changing of county lines, but shall not change the county lines or county seats without the consent of a majority of the people of the county to be affected thereby."

I offer this as a substitute for the entire section.

Mr. HUTCHINSON. Mr. President, I would enquire whether these same questions have not been settled once or twice by the Convention?

The PRESIDENT. Very nearly the same have been disposed of at previous sessions. The Chair is not clear of the right to rule the substitute out of order.

Mr. BLUNT. Mr. President, it appears to me the gentleman from Brown (Mr. Kingman) proposes the same matter we had under discussion yesterday, and which was voted down as not being the sense of the Convention; and the same difficulty appears that is found in the first section as reported by the Committee. His proposition is that no county line can be changed without the consent of a majority of the people in all the counties interested. There may be, as I have stated, and as is frequently the case, a change of county lines proposed, which would interest four different counties, and it seems to me if the proposition of the gentleman prevails, that notwithstanding a majority of three of those counties interested would be in favor of such change, still they are debarred from making such a change for the reason that a majority of the fourth county is not in favor of such a change. It was in view of this difficulty, and of the impracticability of our fixing this matter definitely, that I proposed to leave it for future legislation, by which this matter of the change of county lines might be accomplished satisfactorily to the people; and which I believe can be better done by the Legislature.

Mr. GRIFFITH. I am one of those who believe that the section as reported is all we want. Therefore, in order to test this matter, I move to lay the pending substitute and amendments on the table.

Mr. KINGMAN. Will the gentleman withdraw his motion for a minute?

Mr. GRIFFITH. I will, sir.

Mr. KINGMAN. The language of the section was as carefully drawn to obviate the objections of the gentleman from Anderson (Mr. Blunt) as I thought it possible for it to be. It is not the people of the county to decide, but a majority of the people of all the counties interested.

Mr. GRIFFITH. There is no county established but that the whole county would be affected by cutting off a portion of its territory; and perhaps

every voter thus cut off would desire to remain. If we leave the matter with the Legislature, of course these things will enter into the discussion of the question and the matter can be settled more satisfactorily; and sir, to test the matter, I renew my motion that the pending amendments and the substitute be laid on the table.

The yeas and nays were demanded on this motion, and being ordered and taken, resulted—yeas 19, nays 24—as follows:

YEAS—Messrs. Burnett, Blunt, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hoffman, Lillie, Lamb, Middleton, Moore, McCullough, Preston, Stokes, Townsend, Thacher and Williams—19.

[*138] *NAYS—Messrs. Arthur, Brown, Barton, Burris, N. C. Blood, Foster, Forman, Hanway, Houston, Ingalls, Kingman, McDowell, McCune, McClelland, Palmer, Parks, Porter, Ritchie, Signor, Stinson, Stiarwalt, Simpson, J. Wright, Wrigley and T. S. Wright—24.

So the Convention refused to lay the amendments on the table.

Mr. J. BLOOD. Mr. President, the same question was decided yesterday. I think every member of the Convention must see that it will prevent the minorities from ever obtaining justice. It restricts the Legislature and deprives them [it?] of the power of ever doing justice to minorities.

Mr. RITCHIE. It seems to me the same objection may be raised to this substitute that was urged against the report of the committee—it will allow three-fourths to rule the one-fourth. It is contended from one quarter that the counties in this Territory are not laid out on township lines, and it would be a very great convenience to alter, and have the county lines laid on township lines, and every county to keep themselves as large as possible. It is not to be presumed that a county will vote to cut off any part of itself notwithstanding it may put a large proportion of the inhabitants proposed to be cut off to a very great inconvenience if they are obliged to remain. The same objection will be raised in my county. I could have no objection to the amendment offered by the gentleman from Johnson (Mr. Burris) if county lines were laid out on township lines, but then we would have to go through the Territory, and lay out new counties. And if we were to do this, I do not believe the counties on an average would be as low as four hundred and thirty-two square miles. And I do say that the decision ought to be referred to a vote of the people interested, who might wish to be cut off and added to another county. I don't believe you can find an instance where a majority in any one county would be willing to let another county take a piece off, notwithstanding it would be a great convenience to the people residing on it.

The PRESIDENT. The Chair, on referring to the amendment offered by the gentleman from Doniphan (Mr. Wrigley) yesterday, finds that it is identical with this, and is under the necessity of ruling, that the amendment is not before the Convention.

Mr. GREER. Mr. President, I offer the following as a substitute for the whole section. The Convention has already decided to confer the power upon county boards, and I think it should remain there:

"No new County shall be laid off hereafter, nor old County reduced to less contents than four hundred and thirty-two square miles; leaving the power to change County lines and seats with the County boards."

Mr. GRAHAM. I move to lay the amendment on the table.

The motion was agreed to.

Mr. BURRIS. Mr. President, as there have been so many amendments

and substitutes offered, I think it would be well to have the section and substitute read. (The secretary read the section and amendments). It seems to me that is now extending to the Legislature all the power that is proper to protect the rights and interests of the people. It is saying that they shall provide for the location of county seats, organization of new counties and changing county lines, but restricts them so that they shall not change county seats without a majority of the people are in favor of it; and that there shall be no new county of a less area than four hundred and thirty-two square miles. This is not legislation, as has been intimated. It is merely restriction; and I cannot see any valid objection to this. I think that it is no more than we ought to have for the protection of the interests of all the parts of the Territory.

The substitute was adopted, upon a division—affirmative 24, negative 12.

Mr. INGALLS. I wish to move a reconsideration of the vote by which [*139] the amendment of *the gentleman from Doniphan (Mr. Wrigley) was lost yesterday forenoon.

The PRESIDENT. The gentleman is not in order. The question is upon the adoption of the section as amended.

The section as amended was adopted.

Mr. INGALLS. I now renew my motion, Mr. President, in order to bring the amendment proposed by the gentleman from Brown (Mr. Kingman) before the Convention.

The PRESIDENT. The motion can hardly be entertained, as the Convention has substantially rejected the same question in voting for the adoption of the section. The Chair is unable to determine any manner in which the question can now be reached. The whole of these reports will again be in the hands of the Convention, at which time amendments may be made, by reconsideration.

Mr. GRAHAM. Mr. President, I move that the report as amended be referred to the committee on Phraseology and Arrangement.

Mr. HUTCHINSON. I move to strike out the last section. If we cannot trust the Legislature with it all, we cannot with this.

The PRESIDENT. According to the recollection of the Chair a similar motion was lost.

Mr. HUTCHINSON. We may as well provide that business men shall put out signs in front of their houses.

Mr. KINGMAN. Another provision was necessary, for in another part of this Constitution, under the Legislative Department, we have a provision that officers may be removed by impeachment; and if the gentleman will consider, he will see, that justices of the peace, without the expression contained in this section, can be removed in no other way. They can be removed in this way for one hundredth part of the expense that would attend an impeachment.

Mr. GRAHAM. I move to lay the motion on the table.

This motion was agreed to.

The report of the committee on County and Township Organization was then ordered to be printed as amended, and referred to the committee on Phraseology and Arrangement.

PREAMBLE AND BILL OF RIGHTS.

The PRESIDENT. The Chair will state that the report of the Committee on Preamble and Bill of Rights was made the special order for to-day.

Mr. KINGMAN. I move that we take it up.

The motion was agreed to.

Mr. KINGMAN. I move that we go into committee of the whole.

The motion was agreed to.

The Convention accordingly resolved itself into a committee of the whole—Mr. Stinson in the Chair—and proceeded to the consideration of the report from the committee on Preamble and Bill of Rights.

Mr. KINGMAN. I move that it be read and considered section by section.

The CHAIRMAN. If no objection be made it will be so read by the Clerk.

The first section was read. (The report is printed in the Proceedings of Friday, July 15th).

Mr. HUTCHINSON. In the twenty-fifth line instead of "parallel" insert "meridian."

The CHAIRMAN. If there is no objection the change will be made.

Mr. MCDOWELL. I would enquire whether the boundaries given here are the same as those in the organic act?

Mr. HUTCHINSON. They are the same except the western; which is so fixed that we are four hundred and seventy-five miles from east to west. I would also state that there was an effort made to put the western boundary where the natural boundary is. After diligent enquiry, it was ascertained that the one hundredth meridian west would be in a country which is at present being settled; the one hundred and first will probably be settled, but at the one hundred and second, or twenty-five degrees west [*140] from boundary, it was believed was placed upon a natural san*dy divide, where no part of the population would be cut off that wanted to be with us. There was another objection to placing it upon the meridian given in our organic act. By going one degree further we strike the boundary of New Mexico. By this division it leaves a niche of sixty-seven miles between the western boundary of Kansas and the eastern boundary of New Mexico. The proposed State of Jefferson proposes to take some from New Mexico, some from Nebraska, and probably some from us: certainly there is no argument bearing against this. It is believed this is the true boundary.

Mr. MCDOWELL. Mr. Chairman, I offer as an amendment to that part of the preamble just read, the following additional lines:

"*Provided*, however, that if the people of Southern Nebraska, embraced between Platte River and the Northern boundary of Kansas, as established by Congress, agree to the same, a vote is to be taken by them, both upon the question of boundary and upon this Constitution, at the time this Constitution is submitted to the people of Kansas, and provided Congress agree to the same, the boundaries of the State of Kansas shall be as follows: Beginning at a point on the western boundary of the State of Missouri where the thirty-seventh parallel of North latitude crosses the same; thence west with said parallel to the twenty-fourth meridian of longitude west from Washington; thence north with said meridian to the middle of the South Fork of the Platte river; thence following the main channel of said river to the middle of the Missouri River; thence with the middle of the Missouri river to the mouth of the Kansas River; thence south on the western boundary line of the State of Missouri to the place of beginning."

Mr. GRAHAM. I move to lay it on the table.

Mr. PREST. WINCHELL. Mr. Chairman, I trust no such motion will be made. The subject is one which has elicited a great deal of attention, and some feeling, and it is proper that some opportunity be offered for its discussion.

Mr. GRAHAM withdrew his motion.

Mr. GREER. Mr. Chairman, I move to divide the question so as to take the question first on the western boundary. I desire to keep the western and northern boundary questions separate.

Mr. PRESIDENT WINCHELL. All questions are susceptible of division, except to strike out and insert.

The CHAIRMAN. The Chair will rule that the motion is in order.

The motion was agreed to and the division ordered.

PRESIDENT WINCHELL. Mr. Chairman, if the gentleman will withdraw his proposition it would come in more appropriately after the western boundary question is settled.

Mr. MCDOWELL. I will withdraw it for the present.

Mr. BURRIS moved to strike out the words "twenty-fifth parallel" and insert in lieu thereof the words "twenty-third meridian."

Mr. WRIGLEY. Instead of "twenty-fifth parallel" read "twenty-fourth meridian."

Mr. J. BLOOD. Mr. Chairman, I do not regard the difference of one meridian as of very great importance. I am not very particular about the western boundary being at the twenty-fourth or twenty-fifth meridian. I would prefer the twenty-fifth, and if gentlemen will make a calculation they will find that it is not extending our State unreasonably in that direction—about four hundred miles. I never examined the question much until this morning. The country out there will not be settled for a long time, and is not of much particular value. I think the proposition submitted by the Committee, is a fair one.

Mr. GRIFFITH. I would enquire whether any gentleman here can tell what the exact length of a degree of longitude is in this parallel?

Voices. "Fifty-six." "Fifty-five."

[*141] Mr. GRIFFITH. I believe it is fifty-six, and *that would give us an extent of territory of about four hundred and ten miles. Put it on the twenty-fourth and we would have about three hundred and fifty miles in round numbers. This, I presume, will be the natural divide. I would be in favor of the twenty-fourth rather than the twenty-fifth, and I am not certain that I should be opposed to putting it at the twenty-third.

Mr. THACHER. I understand that a large portion of this western region, from the 23rd or 24th, is a miserable, uninhabited region. The only question is whether we shall include within our boundaries a tract of country that is not valuable to us, and confer upon it the benefits of government at our expense. I think either degree will probably be satisfactory to the people generally. I am opposed to going farther than the 25th. A compact territory of good arable land is better than to be extended over a wild region. Those of us who have read Horace Greeley's letters from that region, and conversed with gentlemen who have been there, are of the opinion that that portion of the territory is not at all inviting.

Mr. BURRIS. Mr. Chairman, in moving to amend by making the western boundary the 23d instead of the 25th meridian, I did so for different reasons. I thought, in the first place, that would give us sufficient area,

as I understood from the Chairman of the Committee that would make Kansas about 475 miles in width.

Mr. HUTCHINSON. I was not correct in that estimate—415 is nearer to the 24th degree.

Mr. BURRIS. By reducing it to the 23d, we would make it something more than 300 miles from east to west, and 210, north and south. That would be a large State—sufficiently large—and in addition to that it would then be nearly all arable land, all capable of sustaining a dense population—an excellent agricultural State. Another reason which presents itself to my mind in favor of limiting to the 23d meridian is this: there is to be a State formed out of the western portion of the Territory of Kansas, to which there will perhaps be added a portion taken from the north-eastern corner of New Mexico. If that is the case the summit of the Rocky Mountains will be the western boundary of that State; and the western boundary of the State of Kansas would be their eastern boundary. It seems to me the 23d meridian would be just about right. Taking a sufficient slice out of New Mexico to square the Territory of Kansas, and then dividing it North and South upon the 23d meridian; cut that in two in the centre; take the eastern, and leave the western for the prospective State of Jefferson; and we would still be longer east and west than north and south; leaving Jefferson about the same size and exactly the same shape. This would leave our territory all good; with no land of any consequence but that would be susceptible of cultivation, and capable of sustaining a dense population. Taking our own interests into consideration, and incidentally the interests of the proposed new State, I would prefer the 23d to the 24th meridian; but I am opposed to going farther west than the 26th.

Mr. WRIGLEY. Having made a more particular examination of the map, and not feeling any special interest in fixing the boundary on the 24th meridian, I will withdraw the amendment I offered.

Mr. HUTCHINSON. Mr. Chairman, I have been listening with great attention to find out some reason for any amendment to the boundary proposed by the Committee, and thus far have been unable to find any for putting our boundary further east than the 25th meridian. It would certainly be the choice of every member of the Committee to place it where it should be to accommodate the settlers. It is simply a question of fact as to how far west this section of country can be inhabited—how far there is timber, water and grass. It is evident that if we place it at the 23d or 24th meridian, that we shall cut off a population that will be greatly discommoded at some future day to travel to meet settlements [*142] near the Rocky Mountains. *That should be the governing influence in the direction of our votes. We are expecting a grant of land from Congress. That will call for alternate sections, in all probability; so the further westward our boundary shall go the greater the number of acres of land we shall get. If it is uninhabited entirely, it will never be worth a dollar, we have nothing to pay on it—we have neither to pay taxes on it nor build fences around it. There is no loss, and I think there is no gain.

Mr. HOUSTON. Mr. Chairman, I desire to offer an amendment. Strike out after the word "westward" where it first occurs, and have it read: "First—Commencing on the Missouri State line, at some point south of the fourth standard parallel line, and traversing southern Kansas westwardly. Second—Commencing at some point on the Missouri river, or

Missouri State line, and traversing central Kansas westwardly. Third—Commencing at some point on the Missouri river and traversing northern Kansas westwardly. Fourth—Commencing at some point on the Missouri river, and running southerly in the direction of the Gulf of Mexico. *Provided*, That should the alternate sections along the lines of said railroads be disposed of, an equal number of sections shall be selected from any other public lands contiguous to said railroads—said lands to be reserved and conveyed to the State for the purpose of aiding in the construction of said railroads under such rules and restrictions as may hereafter be prescribed by law."

I propose to sustain that amendment. I am aware that I shall probably be largely in the minority here, but it seems to me there are some considerations to which we should at least give a little attention. If the subject has no merit at all, of course it is not entitled to any attention; but it does seem to me there are arguments in favor of extending our boundary westward; and I should be recreant to my duty were I not to present these arguments. I shall be as brief as I can. I have learned, for the first time, and with astonishment, of a case where a convention has assembled, or whenever there has been a move made by the people in defining their boundaries, they were benevolent enough to give away one-half their territory! We are so kind to others that we are willing to give away one-half of our territory; and it is the first circumstance of the kind I know anything about. Were we to do it as individuals—were we to give away one-half our fortunes—we would be charged with insanity. In doing this thing, we should have good reasons for doing it. We shall place ourselves upon the record, and will have to settle with the people for this extensive liberality.

Mr. J. BLOOD. (Interrupting). How long have we owned this fortune that is proposed to be given away?

Mr. HOUSTON. I understand that in the act organizing the Territories of Kansas and Nebraska, Congress indicated certain lines for our boundaries, and the lines for Kansas are precisely the lines I have presented in my amendment. These lines have been sustained by two former Conventions in this Territory; but it seems to me we come almost unanimously to conclude we will divide this Territory. We don't own a foot of soil only as we get our title from government. I believe Congress is willing to grant anything that is sensible and right, and were we to extend our boundaries to the summit of the Rocky Mountains, it would never interfere. I pledge my word and position for that. Such a thing has not been done in other States, and why should it be done here? I think we have some claims upon this territory: at least if we give it up Congress will not give it back to us. It is as much given away, as if it actually belonged now. It may not be a sufficient argument to say we are liberal. While Congress is discussing the question of a Pacific Railroad, I think there is a question, the consideration of which ought to present itself to [*143] the mind of every man, and that is, whether it is not prop*er to take advantage of our position. If we can get the boundary designated by Congress in the Kansas-Nebraska bill, and get a road to the mountains, I ask if it is not a question of some magnitude whether Kansas shall not have the grand Pacific Railroad of the country. I tell you there is more in getting the line from the Missouri river to the Rocky Mountains than many men think. Suppose you go on and adopt the 25th meridian, you leave Kansas some three hundred miles from the mountains. It might do,—but is it wise? I'd rather have it go to those regions

of gold. I am a believer in the theory that there is gold there in abundance. Now is the time to concentrate our energies and secure this one grand object in advance, and then those other objects will follow. Kansas is removed from the seaboard, and while the seaboard States may have been formed arbitrarily, Kansas must make her boundaries by a line of policy. Secure this grand Pacific thoroughfare and you can make north, south, east and west tributary to you. Shall we curtail our boundaries, and lose four or five hundred miles of this road? Suppose there is no gold in the mountains, if we get the railroad that will be sufficient. For one, I feel like taking advantage of my position. I am unwilling to yield up any portion of this territory. We are told this territory is too extensive. Figures are better than surmises. California has 188,982 square miles; Oregon 170,230 square miles. Originally Oregon contained 360,000 square miles and a little over; the State occupies more than half that; but divide by two and that gives you 170,000. Texas has 325,000 square miles; and can you divide Texas to-day? No, sir, the slave power is unable to do it. You can no more do it than you can divide a bag of beans. Minnesota has 140,000 square miles. The Territory of Kansas, it is computed, contains only 112,000 square miles, and we propose to give one-half of it away. If it were 200,000 square miles I should still insist upon it. I came to Kansas to make a home, and I want a home worthy of the name. I am not afraid of the State being too large; I go in for large arrangements. We have almost one-third of this territory already covered with Indian reservations. There is a vast amount of Indian territory here, some of which we will get control of and some we will never get control of. You ask Congress to give you a title grant of land! Why ask Congress? If you want liberal things you must act as though you wanted them. If you want to do something that is grand and magnificent, then take in a corresponding area, and show that you understand your position—that you intend to make a great State and want a magnificent grant of land. If you go to Congress and ask for a small State, they will give you a small grant of land. Minnesota and larger States have more land than smaller ones.

Mr. THACHER. (Interrupting). I understand the western boundary the gentleman proposes is the summit of the Rocky Mountains.

Mr. HOUSTON. Yes sir, I want to go just as far as I can go. A vast portion of this territory is prairie country, and won't be settled for some time. If you want to settle it you must give value to it by obtaining good grants of land, and making inducements for men to get timber. You must go to the mountains and get pine, with which to fence and build on your beautiful prairies; but if you give away your prairies, and give those thoroughfares, into the control of other people (who I trust will be wiser than we in this matter), how are you going to accomplish this? I believe what I propose is for the best interests of the whole Territory of Kansas. I happen to belong to that class of men who don't feel much confidence in that thing called humanity. I once thought, when a boy, that brothers and friends could not be brought in deadly strife. The thought of such a thing I could not indulge, even for a moment. Experience has taught me the uncertainty of human affairs, and of this thing called humanity. I do not know but the day is coming—indeed I might say I believe that the [*144] day is coming when, we *will need no slight defenses round about us; (God grant we may never see it); but then we will need no small amount of territory as our home. This nation will be wrapt in fearful conflict. I speak of its position in reference to collisions of State with

State. God grant I may never see that hour, but that hour will come, I fear. What kind of a State would we like to have in that hour? A little State?—limited boundaries? Sir, I would like to make a magnificent home, and leave my family in good moral and political circumstances. For this reason I am unwilling to leave them in a small State. We may need territory in the hour of danger. Whenever that hour comes the little States will be dependent upon the larger ones. It seems to me we are the last State in the Union that ought to think of curtailing a single foot of territory. I would rather add on, until I could control the destinies of the nation, in a great degree. I would add until I brought to this frontier the capital of the whole empire. There is a magnificent idea connected with this subject; but I have already spoken too long. If you run the boundary up the Platte and extend it to the Rocky Mountains, will Congress dare to attempt to add a portion of our territory south? Will a Republican House of Representatives vote to take a portion of this country and give it to the South, without the consent of the people? Will the Douglas party in Congress do it? If it were to do such a thing, it would be the perfect annihilation of that party. There is no such fear; for the Democratic party dare not do it; never—no, never. The question is settled; we have the field before us; and now it remains for us to choose and prepare for the future glory of the State.

The CHAIRMAN. Does the fifteen minute rule of the Convention apply to the committee of the whole?

Mr. PRESIDENT WINCHELL. Everything does that can, in the nature of things.

Mr. GRIFFITH. Mr. Chairman, I presume we shall divide upon two lines—the 23d and the 26th meridian; and in order to bring the Convention to a direct vote, I offer a substitute.

The CHAIRMAN. It is hardly in order; there are now two amendments before the Convention.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I question whether that can be in order. If we had the entire section under debate, a substitute for the entire section might be in order. It seems to me that it is out of order.

The CHAIRMAN. The chair will rule the amendment out of order, then.

Mr. MCDOWELL. Mr. Chairman, I did not intend, sir, as it is an uncomfortable state of atmosphere in this hall, to say anything; but as a vote is about to be taken upon a very important question, I propose to submit briefly my views upon this question and upon the amendment proposed by the gentleman from Riley (Mr. Houston). I shall not limit myself to the single question embraced in the amendment, but shall make some observations upon the general question before the committee of the whole. I regard this question of boundary of as much importance, perhaps more, than any one that will come before us for our deliberation, and I desire to look at the question devoid, if possible, of any local feeling or political prejudice, and to view it, as it seems to me this question ought to be viewed, with all the enlarged patriotism and statesmanship that I can command. And I desire every gentleman in the hall shall do the same. I make no great claims, but in so far as I am able I propose to have these considerations operate upon me in the vote I am about to give. I have said that no question, perhaps, is as important as this. As far as the question of western boundary is concerned, I do not agree with my friend from Riley. Between the meridian that is proposed by the committee on the

Preamble and Bill of Rights and the meridian proposed by the gentleman [*145] from Johnson (Mr. Burris) and the *one suggested by the gentleman from Riley—between the latter and the former there is a large tract of sterile land. The latter proposition would be giving us an extent of western boundary that is not desirable on that ground. The only wealth embraced in the territory included in the boundary suggested by the gentleman from Riley, is mineral wealth. Whilst I believe with him that there is gold there in abundance, and I believe that contributions from these mines will greatly increase our physical prosperity, I do not feel that it is necessary to have that district embraced within our western boundary in order to secure that result. It will inevitably flow to us. An objection to incorporating this part of the Territory is to be found in the character of the population that will occupy that region—their difference of pursuits presenting a people not homogeneous, whose wants will be different and very little in common with ours. I do not, for one, propose to embrace that population within our boundaries. Inasmuch, as it has been indicated that there will be a new Territory established in that region—a proposition emanating from those people who desire it, and received favorably at Washington—I think it a proposition which will be carried out, whether we incorporate that district in our western boundary or not. The western boundary proposed by the gentleman from Riley, embraces a sterile country that never can be brought into a condition of agricultural or physical wealth, or of much importance to this people, and it makes our western boundary too far west. It gives us too many miles to travel over, and would make it inconvenient for a State government to operate upon such an extent of country. Their population, in the new Territory, will be soon perhaps superior to ours in point of numbers. I believe there will be a mining population of a hundred thousand people in a very brief period, chiefly voters. That people, if embraced in our State limits, without contributing especially to the support of the State government, would be able to control the operations of the State government, and therefore I am opposed to embracing them within our State limits.

In the question of our northern boundary, I feel a deep interest, and if I have known my own heart, I have waived every particle of political prejudice and partisan proclivity. As the question presents itself to me, as one of the framers of the organic law of this Territory, it is one that is to control for years the destinies of this Territory. Looking at it in that light, I feel that it does devolve upon this people to receive that magnificent strip of country lying between the southern boundary of Nebraska and the Platte river. I think, sir, that we ought to receive it because it presents a natural northern boundary, fixed by the Great Architect of the Universe; and inasmuch as it is the natural boundary, I think that is the best reason for adopting it. I think we ought to embrace it, because thereby we will have a population rich in its intelligence, in its energy, and in its pecuniary resources—a population that will work with us in developing the resources of this State. Thus situated, we are in the geographical centre of this country, which is to be second to none in its agricultural wealth, its beauty, its richness of soil, and in the diversified character of its productions. We should not then, when this question does present itself, ignore or disregard it, because there may be some local prejudice or some political feeling leading us that way. If we reject it we may never have an opportunity to pass upon that question again. It seems to me to be most extraordinary, sir, for the representatives of the people here, who should be desirous of framing a magnificent Constitution

for a magnificent State, to hesitate to receive, when it is tendered to them —generously tendered—such a magnificent strip of territory, populated, [*146] culti*vated, and at once contributing towards sustaining the burdens of government, and towards everything that is calculated to make this a great and glorious State. What objection, sir, can there be in receiving this gift that is tendered to us? What sound objection? Are the people who inhabit it different from the people of other parts of the Territory? are they not a homogeneous people? and are not our pursuits similar? Can this State of Kansas ever assume any other character than that of an agricultural State? And if it is intended that it must assume that character, why should we object to receiving a strip of country as rich, if not richer than any we have, populated by a people as industrious as any we are likely to have, and who ask at our hands that they may be embraced in the organic law we are assembled to frame? I can conceive no objection. If we refuse to receive this territory, because the capital may not be located here, or some politician may not be enabled to achieve his schemes of ambition, the people will hold us to account for it. There can be no excuse of this character presented to this people; they will not exonerate any man who shall be influenced to vote upon this question, by such flimsy, weak, local considerations. You all recollect, gentlemen, that when the general government first proposed to annex to the United States a strip of territory—the Louisiana purchase—there was a party in the country that opposed it. It was urged, that while the territory itself might be rich, and contribute to the wealth of the government, that yet it was contrary to the spirit and letter of the Constitution of the country. That argument was urged; but notwithstanding that, Mr. Jefferson, who then controlled the administration, seeing the natural necessities that presented themselves, seeing connected with the acres of the northwest this magnificent contribution to commerce, and that there was a vast thoroughfare leading to the gulf, and part of that was then within the power of a foreign government,—thus placing us in their power to a certain extent, he, disregarding the cry of anti-constitution, carried out the measure; and there has not been found a single American citizen who has not claimed that Jefferson did not do precisely what he ought to have done. That country, so annexed, did contribute more than any other to swell the prosperity of our government. So, in a narrower circle of vision, there is presented to us a portion of territory contiguous to us—like our own—with a population similar; but we are not called upon to purchase it, to violate any Constitutional provision, nor by its annexation to disregard the feelings of any portion of that people; and yet, forsooth, gentlemen propose to refuse it, because the balance of power—political power—may be disturbed. If gentlemen cannot get better arguments than this, I trust they will not have the hardihood to utter them upon this floor. We should not view this question as politicians—we should view it as representatives of the people, assembled here to do that which may redound to their greatest good; and it does seem to me no gentleman on this floor can shut his eyes to the possible value of this proposed annexation. I feel that it is not necessary for me to go over the special arguments presented in favor of this proposition by those learned gentlemen from Nebraska, and enter into the details of this scheme. I shall not make an argument to delegates on account of this. I will simply present the general question, and I ask that this tender, generously offered to us, may not be refused.

Mr. PRESIDENT WINCHELL. (Interrupting). Mr. Chairman, I desire to know whether we are to discuss the northern or western boundary.

Mr. McDOWELL. I stated that I did not propose to confine myself to either of the propositions. I believe, sir, that you may discuss, in committee of the whole, anything germane to the matter under discussion; and I simply assumed to myself that right.

[*147] Mr. PRESIDENT WINCHELL. The gentleman *would be correct had not the Convention decided to divide the question. A motion was made and prevailed, that the question should be divided—that the western boundary should be considered separately from the northern.

Mr. McDOWELL. Mr. Chairman, the gentleman has not stated the question fairly. The proposition of the gentleman from Shawnee (Mr. Greer) was, to divide the question, and act upon the western boundary first. I discussed first the western boundary question, and then, as an inducement to fix the western boundary line where I thought it ought to be, I added, that the northern boundary should be enlarged. I do not think by the terms of any parliamentary school the motion of the gentleman from Shawnee embraces a limitation of debate.

The CHAIRMAN. The Chair would rule that both gentlemen are out of order.

Mr. PRESIDENT WINCHELL. I object to the ruling of the Chair very decidedly. When a gentleman is disposed to rise to a question of order, it is a question of privilege; there is no question as to whether the gentleman is not permitted to have a distinct understanding of what is or is not before the Convention.

Mr. THACHER. If the debate is confined to the western boundary, I have nothing to say; if not, I might say as much as I intend to now.

THE CHAIRMAN. The Chair is now disposed to give the largest liberty.

Mr. THACHER. Mr. Chairman, the point legitimately before us is the western boundary, and on that question I imagine we are nearly unanimous. I do not propose to discuss the western boundary. The question which has just engaged the attention of the Convention, and which has excited already considerable debate, is one which I also admit has some magnitude and importance; although I am very far from ascribing to it the magnitude ascribed by the gentleman who advocated it, undoubtedly under an impression of my mental perception of its importance. Sir, we listened yesterday to two learned and earnest gentlemen, and to-day to one, urging upon this Convention the adoption of the north Platte River as the northern boundary of the proposed State of Kansas. Chief among their arguments was one meeting an objection which they supposed would be raised in consequence of the political character of the country proposed to be annexed; and we have been invoked by all the powers of logic and rhetoric, to ignore the political aspect of this case—to lay aside whatever feelings might arise politically, and look at the question dispassionately. Now, sir, I say they urge an impossibility. Had these gentlemen from Southern Nebraska seen the sky lurid with the flames of their burning homes, the soil of these beautiful prairies crimson with the blood of their brothers and fathers, or their wives and children flying over the land for a place of refuge from crime and outrage; had they also known, as we know, that that crime and outrage was committed by the party which is substantially in the ascendency in this portion of the country proposed to be annexed, they would not think of making such an appeal to us. The people of Kansas have suffered unutterable horrors from the Democratic party, and they have just emerged into the light of liberty; they have broken the yoke, and severed the chain, and now you ask them to place

upon their neck that yoke once more. But that can never be done. Never, never, never. If there was no other consideration but that this annexation would make Kansas Democratic, I should oppose it. Sir, before I would again see the people of Kansas brought beneath the heel of that oppression, I would oppose it till I sank into this floor. It is sufficient for me, and I believe it is sufficient for every Republican in Kansas to be satisfied upon one point, and that is: it would once more subject us to the unbearable oppression of the Democratic party. Gentlemen must remember that this is the first time in the history of Kansas, that Southern Kansas [*148] *has been represented in any deliberative body. Think you, sir, that the people who have just escaped from a prison-house that has kept them so long, can desire to re-enter the clammy dungeon? Ask the apprentice who has been driven by the lash of his taskmaster till his majority, to turn back five years of his life! You might just as well ask the people of Kansas to go back and place themselves beneath the rule of that power which has oppressed them. We have seen enough to indicate to us that the heart of that party is the same now that it ever has been; the same hatred of freedom and free institutions; the same desire to crush the weak, and to heap contumely and disgrace upon the poor and humble. When you ask us to lay aside this feeling, you ask an impossibility; and not till the days of the millenium, or till when all things past shall be forgotten, can you expect the people of Kansas to forget the past. Strange as it may appear, the Republicans of Kansas stand as a unit to oppose this measure; and I am frank to say it is because of the treatment we have received from this Democratic party—and there is no use to blink it.

If, as it is asserted, it is geographically necessary that that portion of country should be annexed to us, I venture to say it will come in at the right time. Missouri existed as a State a long time before the Platte Purchase was added. It was fifteen years after the State of Missouri was organized. It will gravitate as much two or three years from now as it does to-day. Sir, there are but four counties on the River that have a population of any amount. The country back, which is described as a beautiful agricultural district, with timber, and prairies, and rocks and springs,—as a very Canaan flowing with milk and honey—is an unsettled country; and it will be time enough when it shall be settled for us to throw the arm of our protection over it. The Platte River annexation will be neither more nor less difficult then than it is to-day. So the argument growing out of anything of that kind falls to the ground. The people of Southern Kansas who are so opposed to this proposition—still smarting from the wounds growing out of the oppression which they have so long suffered in consequence of a despotic rule—are led to suspect this whole thing. You recollect in your classical readings, when the wooden horse was presented to the citizens of Troy (in which a band was secreted whereby the city was entered and captured), their commander said, when the Trojans offered the gift: "I fear the Greeks when they bring hither their gifts." And so say the people of Kansas, when the Democratic party offer to give away a portion of their Territory as a gift. We fear that there is a dagger beneath it. (Mr. Graham—That's so!) Sir, if you admit Southern Nebraska, what do you do? You place the entire portion of Southern Kansas, almost to a man, in opposition to your Constitution; and you can submit no proposition of the kind to them but what they will vote it down, and your Constitution with it, and our labors here will go for naught. These are the political considerations that enter into this case: and I leave for gentlemen from Southern Kansas on this

floor to present the local considerations which impel them to resist the proposed annexation of Southern Nebraska at this time.

Mr. TAYLOR. Mr. Chairman, by the courtesy of the Convention I believe I am entitled to speak upon this question. Having just heard an argument which I could appreciate if it were predicated upon a correct hypothesis, and which would make me too go against the annexation of that territory, if it were true, and knowing as I do that the argument is false, that the points taken are untrue, I propose to illustrate this political question now. The gentleman seems to oppose the annexation of southern Nebraska because it is a gift offered by the Democratic party. Is that true, gentlemen of the Convention! Did not one of your own distinguished representatives in the Council of your Territorial Legislature, a member [*149] of the Republican party in respectable standing, two years *ago present to that body a memorial for the accomplishment of the very thing which the people of southern Nebraska come here and ask the people of Kansas to co-operate with them in doing? Did not that gentleman succeed, by virtue of Republican votes in the Kansas Legislature, in carrying it through, asking by that memorial that Congress should make the Platte river the northern boundary of Kansas, and which was then asserted by a Republican Legislature, as the natural northern boundary of Kansas? I think the record answers us. I am in favor of the annexation of that portion of Nebraska to Kansas, and if there is a man on earth who can testify that I have ever gone for any proposition, since the first hour of Pierce's administration, that the Democratic party were not opposed to as a party measure, then gentlemen may set me down as unworthy of their confidence. I have been told, time and again, that this people emigrated from the same States with the people of Kansas. I have been told that the northern line of this Territory was made south of the line between Missouri and Iowa for the purpose of making a slave State of it; and when its people had to resort to force to prevent Kansas being poisoned by the breath of African slavery, they could receive no aid from any source except southern Iowa and southern Nebraska—the very country we now propose to give Kansas. General Lane came through there with men, and stopped at our town, and erected a fort which stands there today. He received the sympathy of the people, and of many citizens of southern Nebraska; who all said, "Amen to the declaration that Kansas ought to be, and must be a free State!"

We tell gentlemen that the political contest of 1858 demonstrated that there was a majority of the settlers of that country opposed to the Democracy. Their regular nominees were defeated in every county, and the result was the last lower House of the Nebraska Legislature was Republican. We tell them all this and they say, the gift is like the wooden horse of Troy! Sir, I have affidavits, and I only had two hours to procure them in—which are a sufficient answer to the argument, that this is a Democratic trick. Two hours before leaving Nebraska City, I came into possession of a *Leavenworth Weekly Times*. In that paper there was an editorial containing an inuendo, that the people of Kansas believed it was a settled policy of the Democratic party to make Kansas a slave State, and to support the belief, extracts were quoted from a Nebraska gazette saying that John Calhoun, of Kansas candle-box notoriety, had originated and supported it. Sir, there is not a word of truth in it. I immediately proceeded from place to place, taking the affidavits of any [every?] one I could come across. Then the boat was at the landing—The facts are: Calhoun opposed this measure bitterly. They [he?] came in and attempted to break up our

union meetings by denouncing us as Republicans. These are the facts, and I hope gentlemen will not dodge this question by making reasons like this. I stood up there before the people, and when these men urged as an objection to annexation that the people of Kansas were a blood-thirsty people —these were the arguments Calhoun urged before the peaceable and peace-loving people of southern Nebraska—I replied to them, that the brightest page in the history of Kansas was that which told of her wrongs and the manly manner in which she beat back the administration. The people replied to this argument with shouts of applause, and decided unanimously, at every meeting, in favor of annexation. And yet we are told this is a Democratic gift! The question there was not made a party question. The people who are interested in this measure are for it without distinction of party. But this man, Calhoun, and other Democrats in Nebraska, would exhibit paroxysms at the very name of annexation, as wild as mad dogs would at the sight of water. They denounced it as a black Republican measure. You may examine the result of the election in 1858, and there [*150] can be no mistake about *the political sentiment there. This argument melts away under the touchstone of reason, like frost in the morning's sun. It is a mere quibble to answer some other purpose. Sir, there is nothing in this argument.

Some gentlemen seem to think that this measure can be accomplished hereafter; that you can treat the people of southern Nebraska, who are over fifteen or twenty thousand souls, with neglect, without exciting any feeling that will affect this question. Sir, I believe the people of southern Nebraska are co-operating with the Republican sentiment of the people of Kansas, in the same spirit in which your Legislature memorialized Congress. Treat these people with contumely and disrespect now, and when the necessity of this measure shall be pressed home upon you and every citizen of Kansas, try to turn round and retrace the steps and do what ought to be done now! Let me say to gentlemen, a vast majority of these people desire to come into the State government of Kansas, but if you neglect the golden opportunity offered to you now, you will never find it again.

I ask gentlemen to consider this: where in the history of this government will you find a single case of a State or Territory acquiring national domain, inhabited by American freemen, upon such terms—the simple acceptance of it? There is not a solitary instance. You will find that they always have to contend for every inch of ground. Look at the history of every nation, and you cannot find a parallel. Let Kansas become a State, and the day will be passed when she can extend her boundaries north or south. Unless you accept this boon, the people of Kansas will be compelled to say that the Kansas Constitutional Conventions did not do all in their power to promote the interests of the future State of Kansas. I explained yesterday that you had no power to extend your jurisdiction arbitrarily over us; Congress reserves and exercises that power only in pursuance of the wish of the people interested. All you can do is to memorialize Congress, or insert the boundary in your Constitution. But if you are afraid that would jeopardize your admission into the Union, simply memorialize Congress, and you will have done all that people call upon you to do.

Mr. BURRIS. Mr. Chairman, I move that the committee rise, report progress and ask leave to sit again.

The motion was agreed to.

The committee accordingly rose, the Chairman reported and the leave was granted accordingly.

HOUR OF MEETING CHANGED TO 8 O'CLOCK, A. M.

Mr. KINGMAN. Mr. President, I have a resolution to offer. It is as follows:

"*Resolved*, That the standing orders of the Convention be so amended as to make the time of our meeting 8 o'clock, A. M., instead of 9."

Mr. WRIGLEY. I move that we adjourn at 1 o'clock, and that we have but one session a day.

The motion was rejected, and then the resolution was adopted.

Mr. GREER. Mr. President, I move that the Convention adjourn till Monday morning, 8 o'clock.

The motion was rejected, on a division—aff. 16, neg. 24.

The PRESIDENT. The hour having arrived the Convention stands adjourned till 3 o'clock.

The Convention accordingly took a recess till 3 o'clock, P. M.

SATURDAY, July 16, 1859.

AFTERNOON SESSION.

The PRESIDENT called the Convention to order at 3 o'clock.

The PRESIDENT. The subject before the Convention is the report of the committee on Preamble and Bill of Rights.

Mr. BLUNT. Mr. President, I move the Convention go into committee of the whole.

The motion was agreed to.

[*151] The Convention accordingly resolved itself *into a committee (Mr. Stinson in the chair) and proceeded to the consideration of the report from the committee on Preamble and Bill of Rights.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I move that, for this debate, members be limited to ten minute speeches.

Mr. BLUNT. Mr. Chairman, this question has been discussed and a wide range taken, this forenoon. Some gentlemen have spoken at length, and I believe the discussion has come from one side, with but one exception. I desire to have something to say upon this subject, and I presume there are other members whose views should be heard; and I hope the Convention will not attempt to gag us off, and confine debate to ten minute speeches.

Mr. PRESIDENT WINCHELL. There are fifty members here, and I suppose one has as good a right to speak as another. I confess I would rather hear fifty ten-minute speeches than one-fourth the number four times that length. I believe every man here can say all he ought to say on this subject in ten minutes.

Mr. BLUNT. I move to amend by inserting twenty minutes.

Mr. FOSTER. If I understand the rule of the committee of the whole, a man can speak as long as he wants to. I shall oppose the motion.

Mr. J. BLOOD. I regard this matter as an important question, and I do not think that there would be any difficulty without adopting the rule;

but I am anxious to get through with business, and I am willing to restrict the discussion of this question. I do not want ten minutes nor five minutes, myself.

Mr. WRIGLEY. Mr. Chairman, I have not attempted to perpetrate a speech, and don't intend to, but I deem this question to be one of great importance, and I do not desire that any gag shall be applied in the discussion of it. If gentlemen desire a reasonable amount of time to express their sentiments, it ought to be allowed to them, most assuredly; and until some gentleman trespasses so far upon our time as to become a nuisance and annoyance to the Convention, I think such a motion ought not to prevail. When gentlemen become exceedingly windy and disposed to perpetrate their speeches unreasonably upon the Convention, it will be time enough to introduce a motion of this sort; and until that time comes, each individual ought to be allowed the time he may desire. The object of going into committee of the whole is to have an interchange of opinion without limit or restriction, and it occurs to me if a motion of this sort would prevail, it would be the worst kind of an application of the gag rule. I hope it will not prevail.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I did not desire to say anything further on this point, but this favorite phrase of "gag rule" has been repeated so often, that I wish to say it comes with ill grace from gentlemen who entertain views different from my own on this boundary question. This motion was not made until gentlemen on the other side of the question had an opportunity to express their views; and it strikes me as disingenuous, coming from them. The object in going into a committee of the whole is, in the main, to avoid a voluminous journal. I have yet to see what there is that prohibits gentlemen from expressing their views in ten minutes. Ten minutes is a long time.

Mr. MCDOWELL. Mr. Chairman, I have a single remark to make upon this subject. I hope the committee will not sustain the motion of the gentleman from Osage (Mr. Winchell). I have no doubt a number of gentlemen will desire to give their views fully and at length to this committee, and it may be that some of us have not that power of comprehension that the gentleman from Osage has——

[*152] Mr. PRESIDENT WINCHELL (interrupting). I *call the gentleman to order. He is getting personal.

The CHAIRMAN. The point of order is not well taken.

Mr. MCDOWELL. Mr. Chairman, as far as my experience goes, I have not seen shorter speeches made in any deliberative body than we have had in this one. But as I was about to observe, we are framing an organic law, not to last a day or a year, perhaps, and most important questions come before us; and it does seem to me no gentleman ought to endeavor to withhold discussion as this rule will withhold it, if it passes. There is no gentleman upon this floor who is disposed to abuse the patience of the Convention. I have heard no long speeches; I believe I have made as long speeches as any—and they have been brief and to the point. Ahem!

Mr. HUTCHINSON. I would ask if this motion applies to this afternoon, or as a permanent rule in the committee of the whole.

Mr. PRESIDENT WINCHELL. To to-day.

Mr. J. BLOOD. I understand—upon this question of boundary.

Mr. PRESIDENT WINCHELL. Upon this question, to-day.

Mr. FOSTER. I move to amend by inserting "thirty minutes."

The amendment was rejected, on a division—affirmative 8, negative 16.

Mr. Blunt's amendment was also rejected, and then the original motion was agreed to.

Mr. GRIFFITH. Mr. President, representing as I do, a constituency in the extreme portion of Southern Kansas, I propose to offer a few thoughts on this question of boundary—a proposition made to extend our northern boundary to the Platte river. Sufficient reasons have been offered on this floor to justify our Nebraska neighbors for desiring this annexation, but, sir, what arguments have been offered to justify our compliance with their proposition. It has not been shown on this floor that annexation would prove advantageous to our railroad and commercial interests. This has been carefully and perhaps purposely passed over. The heat is very oppressive; I shall therefore content myself by simply indicating the reasons why I shall vote against the extension of our northern boundary.

1st. Annexation may peril our chances for early admission into the Union. There are gentlemen in this Convention who think the Democratic element in this body support this proposition because they hope by annexing Southern Nebraska to gain the political ascendancy in the organization of the State government under the Constitution here framed. I cannot believe this is the reason which influences them. A more probable reason for their action may be found to lie in the ultimate effects of the adoption of this proposition upon early admission into the Union. Suppose we make the Platte our northern boundary, and the House of Representatives should accede to our proposition, but the Senate should refuse, and offer to compromise by cutting off 50 miles from Southern Kansas. The result would be, in all probability, a reference of this matter to the people, and thus we should be kept out of the Union until after the Presidential election in 1860. They are anxious to keep us out if a sufficient pretext can be found. I propose to give them no pretexts, so that, if we are kept out, it shall be because we have not the 93,000 inhabitants required in the English bill. It has been said that the Government officials in this Territory are regarding this proposition with great favor. Doubtless they have good and sufficient reasons therefor. They are interested in keeping Kansas in a Territorial condition as long as possible.

2d. Annexation would be an act of injustice to Northern Nebraska. Its effect would be to keep the remaining portion of that Territory in a Territorial condition for, perhaps, five years.

[*153] *3d. Annexation, as a political move, is also impolitic. In the North we are interested in the rapid increase of the number of free States. The South are desirous not to increase the number. They are struggling to hold the power of the government, and they propose to do so by throwing every bar possible in the way of formation of free States. Now, sir, annex Southern Nebraska to Kansas, and you shut out the application for one more free State for at least five years. But let Nebraska remain as she now is, and she will make application to the first Congress of 1860 for admission as one of the sovereign States of the Union. This is a sufficient reason why a Northern man should not accept the proposition to annex Southern Nebraska to the State of Kansas.

There are other important reasons which might be urged with potency against the proposition. I shall not enter into an investigation of these at present, for I am willing to go on the record with those already indicated.

Mr. FOSTER. I move the committee rise.

Mr. PRESIDENT WINCHELL. I would like to hear reasons assigned for rising so soon.

Mr. FOSTER. I will say that my friends on the other side of the hall are making the speeches, and it is very hot here for us to sit and listen to them.

Mr. WRIGLEY. Another reason is because I believe the gag rule was applied for the benefit of imbecility and ignorance.

The motion was rejected.

Mr. BLUNT. Mr. President, I had desired to speak somewhat at length upon this question of boundary, but as the gag rule has been adopted, I must necessarily be brief, and shall not pursue the line of argument I had intended. Upon the subject of our western boundary I have but a few words to remark. I do not hesitate to say that I have but little choice, whether the 23d, 24th or 25th meridian is agreed upon as our western boundary. I believe there is no one upon this floor, except the gentleman from Riley (Mr. Houston) whose large philanthropy and expansive ideas embrace all creation "and the rest of mankind," that proposes to extend our western boundary to the Rocky Mountains. And I think it is generally conceded by the members of this body, that the domain now embraced in our Territorial limits is of sufficient area to comprise two States; and that as the pursuits and interests of the eastern and western portions of Kansas are likely to be dissimilar and antagonistical, it is desirable that it should be so divided; and the only question as regards our western boundary is—when [where?] shall this line of demarcation be set up? To divide upon the 23d meridian, would be to give us a sufficient number of square miles to form a State larger than New York, Iowa, or Ohio, or to give a more definite idea of the extent of territory, it would be two hundred and ten miles from north to south (with our present northern and southern boundary) and three hundred miles from east to west, and comprising over seventy-three thousand square miles. We would then embrace all of the desirable territory upon this side of that large sterile plain, situated on our west, that would add neither wealth nor importance to our State, but over which to extend our laws and protection, would be an onerous burden. And, moreover, by fixing upon the 23d meridian, we would be leaving to our western neighbors, who propose to set up the new State of Jefferson, a sufficient area of territory to form a large and respectable State; but as I before remarked, I have no great preference for any one of the three meridian lines proposed, and will be satisfied with either. Before leaving this subject, however, I wish to add a few words by way of reply to the gentleman from Riley (Mr. Houston), who has tried to sustain an argument in favor of extending our western boundary to the Rocky Mountains. The gentleman, with his profound [*154] wisdom and keen *penetration, arrogates to himself the guardianship of "posterity" and "the millions yet unborn;" and with an eloquence peculiar only to himself, he admonishes us to be very careful how we handle this question of boundary. The gist of his argument has been, that, if we did not extend our boundary westward as far as our present territorial limits, we shall deprive ourselves of all facilities for constructing a railroad up the Kansas Valley to the Pacific, and also cut off all intercommunication between ourselves and that newly discovered El Dorado upon the eastern slope of the Rocky Mountains; or, in other words, if we do not have control of this whole region west of us, that the people of Pike's Peak—instead of seeking the shortest and most natural and practical outlet to the eastern States, by the Kansas Valley route, they will go through the Platte Valley, and through Nebraska on the north of us; and by the Arkansas route on the south—either of which is several hundred miles further, and possessing less than half the local advantages.

When he has convinced me that an imaginary or arbitrary geographical line, extending north and south through the plains of Kansas, will affect the natural tide of commerce; that it will prevent inter-communication between States and communities; that it will be a barrier to the exchange of our agricultural commodities for the gold from the mining districts of Pike's Peak; or that it will change the channel of the Missouri river; then, and not till then, will I conceive that his premises are true, and his reasoning correct. I do not like to judge men's motives, but in listening to the gentleman's speech in favor of the extension of both our western and northern boundary, the query has occurred to me whether the location of the State capitol at Manhattan, as he saw it in his vivid imagination, did not have much to do with the zeal and fervor with which he has advocated the cause.

Having thus briefly adverted to our western boundary, I shall pass on to the consideration of the subject of the annexation of Southern Nebraska, which measure has been advocated with considerable ability and great zeal upon this floor—not only by the members of this body, but by the gentlemen representing that portion of territory proposed to be annexed. Much has been said by our Democratic friends on the other side of the House, who are presenting this annexation scheme with a great deal of vigor—about this discussion taking a political caste, and we are continually exhorted to lay aside our party prejudices, and view the matter in a liberal, and not in a political aspect. I do not know, nor have I any data for knowing, the present political character of that portion of territory proposed to be annexed, or how it might politically affect the future State of Kansas. One thing, however, is quite clear to my mind, that whatever may be their political complexion, they are very desirous—or a portion of them at least—of attaching themselves to us, and being included in the State organization of Kansas. What is the extent of this territory south of the Platte river? At the widest point it is about one hundred miles from south to north, and the mean width about seventy-five miles. Although it was ingeniously stated upon this floor, by the gentleman from Nebraska (Mr. Taylor) that it extended our boundary only forty miles, and in order to make his statement consistent with truth, he reckons from a point about the 25th meridian west, where the Platte river makes a circuitous bend to the south. Again; it may be asked which is to be the most benefited by this annexation—Kansas or the territory to be annexed? According to the arguments of the gentlemen here from Nebraska it would appear that Kansas is to be the recipient of all the favors—that a valuable tract of land is to be given us, containing great wealth, from which a revenue may be derived for the support of [*155] *our government without any increase of our expenditures. This position is erroneous, for as you increase the sources of revenue by the annexation of additional territory, you likewise increase the expenditures in the same ratio; hence this part of their argument goes for nothing. They tell us again that the Platte river is the natural boundary, and that the domain lying south of it of right belongs to Kansas; and with much eloquence and zeal they admonish us that now is the propitious time to possess ourselves of this valuable prize. They say to us, "we tender you this free offering—now is the golden opportunity. If you do not accept the offering at this time you lose the prize, for another opportunity of acquiring this beautiful and fertile country will never be offered you." In reply to this kind of argument, I have only to say, that, if their position that the Platte is the natural boundary, and all south of that rightfully belongs to Kansas, is correct, she will ultimately obtain it; but gentlemen

tell us that when our boundaries are once fixed they cannot be changed. In refutation of that point I will cite them to the case of Missouri, to which was annexed the Platte purchase long after she had become a State.

Here the Chairman's hammer fell under the ten minutes rule.

Mr. PARKS. Mr. Chairman, I move that the rules be suspended so that Dr. Blunt may proceed.

The motion was agreed to without a dissenting vote.

Mr. BLUNT. Mr. President, I cannot believe that it is for the political good of the people of Kansas, that the gentlemen from Nebraska are here laboring with so much zeal. I know that men do not generally engage in such enterprises from pure philanthropy and disinterested motives. I think that in the consummation of this annexation scheme, Southern Nebraska would be the beneficiary and not Kansas. I respect these gentlemen's claims. I respect the zeal and anxiety they have manifested in this cause. I have no doubt they sincerely desire to come within the protecting folds of our State organization, and thereby rid themselves of the local and internal strife that is nearly distracting them; and could that strip of territory be annexed without endangering the interests of our own people, I would unhesitatingly grant their request.

But whatever may be my own personal feelings and views in this matter, it is sufficient for me to know that the people whom I represent upon this floor are decidedly opposed to this extension of our northern boundary, and in the faithful discharge of the trust confided to me, I could not do otherwise than vote against it. And before passing this subject, I must allude, though briefly, to some of the reasons why the people of Southern Kansas do not favor this proposed annexation. Southern Kansas, comprising the most beautiful and fertile region of our Territory, must necessarily be an agricultural community, and regarding the Kansas Valley as the natural commercial centre, we also desire that it should occupy the same position geographically, that the political power and patronage which is to control the future enterprises of Kansas, may be nearly equally divided on either side of this commercial outlet, and that we in Southern Kansas shall not be forced to occupy any minor position. We have now over one hundred miles of river frontier, extending from the mouth of the Kansas river northward—which is densely populated—whose interests are of a commercial character and dissimilar to ours. Of this we do not complain, as it is necessary that the agricultural and commercial interests should to a certain extent be blended together for the mutual benefit of [*156] both. We conceive that *with our present boundaries north and south, these diversified interests are now about equally distributed, and that equilibrium we do not propose to disturb.

If you annex that portion of Nebraska south of Platte river you extend our river frontier one hundred and fifty miles, or make it more than double what it now is. It is the river counties of the Platte country that contain nearly the whole of the present population, and their interests are chiefly of a commercial character. Then if you add this hundred and fifty miles of river border, making the whole river frontier over two hundred and fifty miles, whose towns will be densely populated and whose interests will be dissimilar to ours, you will be giving to them the preponderance of political power whereby they will control the future enterprises of Kansas, and the agricultural interests of the interior will be made entirely subservient to theirs, and we in Southern Kansas will be like the tail of a kite, subject to the caprice and will of the river border—a position we do not choose to occupy. And in this matter, I do not think

we evince any more selfishness than is incident to human nature generally, as it is the province of every community to look after its own interests, and we feel that if we do not look after our local interests in this matter, that the people of Southern Nebraska will not do it, in a manner that will be altogether acceptable to us.

It has been asserted on the one side upon this floor that this is a scheme to strengthen the Democratic party, or to give it the ascendency in the State, and as often denied by the other side. I am not prepared to say that the Democrats upon this floor (who I believe, without an exception, have taken a position in favor of annexation) are influenced by any such motive, for, as I have before remarked, I do not know the political complexion of the territory proposed to be annexed. But, nevertheless, when I see that party arrayed in favor of this movement—when I see not only every Democrat upon this floor, but every federal office-holder in the Territory, from the Governor down, pressing this matter with so much vigor, and making it subordinate to every other issue, claiming at the same time that they are disinterested as a party, and have only in view the future glory and prosperity of the Commonwealth of Kansas; I confess that the conclusion forces itself upon my mind, that under all this disinterestedness and sophistry there is a concealed dagger; for I believe it is not susceptible of proof that the Democratic party, especially in this Territory, has ever distinguished itself by disinterested philanthropy. The question may then be asked, why is it that this party manfests so much feeling upon this subject? Upon a superficial view, it may be remarked that all its votaries upon this floor except one (Dr. Barton of Johnson), hail from north of the Kansas river, whose local interests would be advanced by the annexation; but in refutation of that course of reasoning it is only necessary to state that quite a number of Republicans in this body hail from the same locality, and we find them all opposed to extending our northern boundary to the Platte river, and they tell us that the mass of the people whom they represent in the northern portion of Kansas, do not attach much importance to this proposition, and are not at all anxious to be coupled with any portion of Nebraska. And I have yet to learn that there is any constitutional difference between a Democrat and a Republican—that they would not be affected in like manner by the same material or local causes.

Mr. President, in the hasty view that I have taken of this matter, as it has presented itself to my mind, I can arrive at no other conclusion than this: That in the zeal in which the Democratic party are advocating this annexation scheme they are prompted by no other desire than to defeat the whole Constitutional movement and to perpetuate our Territorial exist- [*157] ence. In case they should *not get control of the State organization, and in support of this proposition, it may not be improper to remark, that the federal office-holders in Kansas are among the most earnest advocates of the extension of our northern boundary. And it is a matter susceptible of proof, that but a few days since a person high in official station in this Territory proposed to secure to the city of Lawrence the location of the seat of government by Democratic votes; if, in return, the delegates from Douglas county upon this floor, would vote for the annexation of Southern Nebraska. These federal office-holders who are engineering this matter, know that if this attempt at a State organization is successful, their occupation is gone, and having failed to defeat the popular movement for this Convention, and having still later failed to secure a controlling majority in this body, to use for their own political purposes, they now endeavor to prevent the consummation of a State government

by inducing us to go beyond our legitimate sphere, in extending our boundaries, and including territory not included in our Territorial limits, thereby embarrassing our action before Congress, and furnishing our enemies in the National Councils a pretext, and arguments to be used as a barrier against our admission into the Union as a sovereign and independent State.

In conclusion, Mr. President, I would remark by way of caution to the Republican party as represented upon this floor, do not suffer yourselves to be inveigled and deluded by the enemy of a State organization and free institutions in Kansas. Whatever merits or demerits attach to this Convention, must be assumed by the Republican party of Kansas. They, and they alone, will be responsible. The people are long since wearied of their Territorial government, and almost discouraged by the frequent unsuccessful attempts to change it. From the actions and deliberations of this body, they expect will emanate the fundamental law that will form the basis of free institutions, that will be the pride and glory of one of the brightest stars in the constellation of States. The eyes not only of the people of Kansas, but of every State in the Union, are directed toward us, and much is expected of us; let us not travel out of our legitimate sphere, or encroach upon doubtful premises. Let no extraneous subject divide us, or embarrass our action, but with a fixed purpose to advocate the right, and to devote our best energies to the interests and welfare of the people we represent, let us faithfully discharge the trust confided to our care, and leave the result to form a part of the future history of Kansas. Mr. President, permit me to return my thanks to the Convention for the courtesy and indulgence extended towards me in removing the gag and permitting me to proceed.

Mr. WRIGLEY. I assure you, Mr. Chairman, and gentlemen of the Committee, that I am as little inclined to make a speech on this hot afternoon as the Convention is to listen to it, but believing as I do that this is one of the most, if not the most important question that is presented, or to be presented before this body, I desire to offer a few remarks in relation to the boundaries of the future State of Kansas. It seems that the proposition as it stands is this: the gentleman from Johnson (Mr. Burris) moves that our western boundary be designated as the meridian of longitude twenty-three. To that motion, an amendment is offered by the gentleman from Riley (Mr. Houston), that the western boundary be as in the organic act, which extends our western boundary to the Rocky Mountains. Legitimately, Mr. Chairman, this is the question that is properly before the committee of the whole. Inasmuch as a wide latitude has been extended to other speakers, I desire an opportunity of giving expression to my view in relation not only to the western but the northern boundary. I am in favor of the motion of the gentleman from Johnson, because I believe the twenty-third or twenty-fourth meridian is the proper western boundary of Kansas. I believe it for reasons which have already been stated, and which are made apparent to the great body of this Convention; to the great body of the people of Kansas; and to the great body of the intelligent people of this country, who have paid any attention to this subject. Why, sir, you put the western boundary upon the twenty-third meridian; you have on the eastern side the agricultural district of Kansas, and you have [*158] on the west an expanse of territory of equal width and of *equal extent, barren, sterile and unfit for agricultural purposes. It has been stated that already propositions have been made for organizing a new State west of Kansas, and that is contemplated in this boundary. I have

heard some intimations to that effect. I don't know whether they be true or not, but of one thing I am perfectly satisfied, and that is, that if a new State is ever formed, in the region about which we are talking, it will be considered as a first class State, not because of its agricultural importance, but because of its mineral resources. It will be a mining State, because of its universal importance. I say it, as indicative of my own and constituents' views, that so incompatible are the interests of an agricultural and mining people, that it would be far better for the State of Kansas to exclude that region from its borders. There will be a diversity of interests between the eastern and western part of the future State of Kansas, in case her original boundaries are retained. On the one hand you will find the people devoted to all possible kinds of the industrial pursuits of life, giving themselves up principally to the agricultural interests; on the other hand you have a roving and unsettled population; not, perhaps, settling for a permanent settlement, but going there for a very temporary purpose, that of taking the glittering gold out of the bowels of the earth—of availing themselves of the mineral resources of the country. These two classes will never become homogeneous. And so, when you consider that between these two sections of country there will be an intervening territory vast in extent, sterile and unfit for habitation, occupied only perhaps by wild animals of the prairie, it will be seen that it is truly impossible to reconcile one with the other. I am not opposed to a great extent of territory. I would perfectly agree with the gentleman from Riley (Mr. Houston), that the State might extend as far to the north, south, east or west as it might be desirable for the interests of the people that it should extend its borders; but simply on account of the interests of the agricultural portion of the people, I desire that the western boundary be fixed somewhere near the point named in the amendment of the gentleman from Johnson (Mr. Burris). I believe these two interests are incompatible; and that this sterile plain which intervenes between the agricultural and mineral portions of Kansas is so wide—occupied only by wild animals, and unfit for cultivation to such an extent—as to render the community of interests altogether incompatible. For this reason I fix upon the boundary as named in the amendment just referred to. I believe a large majority of this Convention are in favor of that, or something near it. If anything else can be said, I don't know what it should be. All has been said pertaining to that point which occurs to my mind. As far as the wealth of that country is concerned, it will be as well as if we included it within the borders of our future State. I am anxious that there shall be constituted a State west of Kansas embracing Pike's Peak and all that mineral region. I believe it will be for the interest of the people who inhabit that section of country. I believe, all things considered, it would be better to cut off that sterile country and embrace upon our northern boundary an equal extent of more fertile country; and it is thus important that we should consider, not only the western, but also the northern boundary question. It will be observed that if we make our western boundary upon the twenty-third meridian, or in that neighborhood, and extend our northern boundary to the Platte River—

Here the Chairman's hammer fell, under the ten minutes rule.

Mr. BLUNT. I move that the gentleman have liberty to proceed.

The motion was agreed to.

[*159] Mr. WRIGLEY. Mr. Chairman, I thank the *Committee for its courtesy and will be as brief as possible; for I was sincere when I said I did not desire or intend to make a speech. As I was remarking, I am

in favor of making the western boundary on the 23d meridian because I am in favor of attaching Southern Nebraska on the north. If we run our northern boundary to the Platte River and fix the western boundary at the 23d meridian of longitude we will have nearly a square State, being about three hundred miles from east to west, and the same from north to south, in round numbers; you will embrace the best portion of fertile land in the Territory of Kansas, and you will also have the best lands of Nebraska. The intimation that it was designed by nature for our northern boundary is attested to by the people who inhabit that section of country; the best evidence is not only what appears on the surface, but what throbs in the hearts of men. Inasmuch as the Platte River is almost impassable, so the people, as if impelled by nature, have elected their delegates to present themselves before this Convention, insisting upon that river as the northern boundary of Kansas. By attaching this territory you add a large extent of very valuable land. You not only add to your present territory an extent of very valuable arable land, but you increase your river border, in itself a matter of considerable importance to the people of Kansas. You include numerous milling streams; also a population of perhaps twenty-five thousand souls—intelligent, industrious, and who possess a great amount of wealth—those who can join with you in bearing the burden of taxation and assist in developing the resources of the future State of Kansas. Southern Nebraska embraces almost one-third the extent of country of the present dimensions of arable land in Kansas. It occurs to me this matter is of some importance to the people of the Territory of Kansas, if looked at without partisan feeling, and with calm, deliberate consideration. I have been somewhat astonished at the partisan feeling manifested here, but I rejoice to say that I can approach this question without one single iota of prejudice. I know my constituents are desirous of annexing this portion of Nebraska, and I believe it to be the wish of a majority of the people of Kansas. Ought the question of whether it be of party importance or not to enter into the mind of any gentleman upon this floor? I approach this question, and shall cast my vote without any reference to partisan influences. I should be ashamed to approach and act upon it for partisan effect. If members of this Convention cannot find any better arguments against the addition of this great country to Kansas than such considerations as these, they had better hide their heads in shame. What are we doing here? We are collected together to frame a Constitution for the future State of Kansas, evidently possessing the power of fixing the boundaries of the future State—and with that power in our own hands, this rich treasure is laid at our feet. But gentlemen say it will militate against the Republican party of the Territory of Kansas. I would ask the gentleman from Douglas (Mr. Thacher) from whence comes his information that that particular portion of Nebraska is Democratic? Where did he get his information that this was a Democratic scheme? Who informed him that the people of Nebraska, south of the Platte, were Democratic, and opposed to the Republican party? Did he derive it from gentlemen who represent that people? If I recollect, and I think I am right, they declared that the people were unmistakably Republican. They said there can be no doubt about this question. They tell the Convention that they themselves have opposed, from the beginning to the end, the measures of the Democratic party, since the beginning of Mr. Pierce's administration. They have opposed every Democratic measure which has been presented to this people. They say they not only are not Democrats themselves, but a majority of their constituents are beyond

[*160] controversy *Republican. Then I ask how is it that these gentlemen have ascertained that they are Democrats? Where did the gentleman from Douglas derive his information? And then, if true, is it a motive which should actuate an honorable man? Is it a motive that should incite an honorable member of this Convention to action? Ought any member to view this question in the light of partisanship? Even taking it to be true, for the sake of argument, that it is a Democratic country, is it to follow that Republicans are to vote against the annexation of that section because of that fact? Are they to ignore the fact, that it embraces a beautiful extent of country; that it adds to us a population of intelligent and wealthy men, and makes a very considerable addition to the means of prosperity for our future State? Are they to ignore all the benefits the people of Kansas are to derive by annexation, simply because they think it will militate against the Republican party? Is it true, that this Constitutional Convention is to frame a Constitution for the benefit of the Republican party exclusively? Is it so that our organic act is to be made, not for the benefit of the people of Kansas, but for the benefit of the Republican party? Says the gentleman from Douglas, Southern Nebraska is not to be added to Kansas because the heavens there have not grown lurid with flames, and the settlements have not been made red with gore, and the prairies have not been covered with dead bodies of murdered men, as has been the case in bleeding Kansas. Because you have not suffered all this inconvenience; because houses have not been burned and children have not been murdered, therefore you are not to be attached to Kansas! In other words, the Republican party makes its capital about this cry of blood and thunder, and raw head and bloody bones, and says to the Platte River people—because you have never entered into that contest therefore you are not to be made part of Kansas! I am opposed to bringing party into the consideration of this question. While I am sincere in the belief, that a majority of the people of Southern Nebraska are today Republican, I shall vote for the annexation, with just as much satisfaction as I would if I knew it were Democratic, for the reason that I believe it will be for the benefit of the people of Kansas; and I am willing to trust the principles which I espouse, not to adventitious circumstances, but in the hands of an intelligent people. Thus, whether the people of that section agree with my political views or not, I am willing to trust them to the people of the country. Are members of the Republican party so fearful of their principles that they dare not trust them to the people of that section of country? If so, they had better hide them, as well as themselves, in the shade. Those people are quite as able to determine what is right as we are. We are all sprung from one common ancestry; and it does appear to me that principles may safely be lodged with the people, they to determine which party is right and which is wrong; and both parties ought to divest themselves of party prejudices and look at the matter simply as it is likely to affect the interests of the people of Kansas. It occurs to me that, practically, there is but one view of the question, and the gentleman himself has indicated that. He says this proposition cannot succeed, because the Republican party cannot divest themselves of this prejudice; that believing Southern Nebraska is Democratic, they candidly believe they would be doing injury to the principles which they espouse by admitting it into the State. They have admitted their opposition to annexation to be their opposition as partisans, and nothing else. They don't claim that there is one single principle involved in it. It is all because they imagine that portion of country is Democratic.

I repeat, sir, that these matters of partisanship ought not to enter into the [*161] *consideration of this question. But I have said more than I intended to say. I have said I desired the western boundary to be fixed at the twenty-second meridian; in order that, by cutting off that sterile region, we might embrace a fertile region on the north; and I have said, that I desired members of this Convention, without regard to party, to consider the propriety of so deciding.

Mr. LAMB. Mr. Chairman, I have not made myself troublesome to this Convention, and I now desire to add but a few words. I doubt not the sincerity of the delegates from Southern Nebraska in presenting their claims here. I have no idea but that they are honest men, and present the claims which they actually desire. But we stand in a precarious position here in Kansas. Our struggle this last winter is about to be completed, and now an idea is raised of attaching more territory; and I question whether or not we will entangle ourselves. These gentlemen, in presenting their claims, have done it in a very fascinating manner. They have told us what a wonderfully good country they have; how well watered and timbered; how about their mineral and salt springs, and their population; and they say: "All this I give unto you, and in consideration thereof I ask nothing only to come into your dominion." You all remember the anecdote about the cat whose claws were all worn out, and how she adopted a system to catch the mice by getting down into the meal tub and covering herself up in the meal. The old rat comes and says: "It looks like meal, but there may be a mistake there." Now, this proposition looks favorable, but I'm afraid there's a cat in that meal tub. I will illustrate my idea still further by telling an anecdote. A sailor who had been in the habit of crossing the ocean, had paid some respects to a wealthy young lady, but another individual was paying her his attentions who was very homely, while the sailor was himself beautiful to look upon. Well, the last time he went to see her before going out on a voyage, she says to him, "Now is your last chance; I love you with all my heart, and you know the vast wealth I have got. I will give it into your hands if you will marry me before you make the voyage; if you don't, you may expect I never will." The lover said he desired some token. "I will give it," said she. But the sailor replied: "The best token of love is to let me make the voyage and return, and if you will then marry me, that is the best token." Now they have presented the claims of Southern Nebraska, and they look earnest. The lady no doubt wanted to marry the sailor then, and wanted to make an impression; but he made the voyage, returned, and found her just as ready to receive him as before. Now if these men desire to be annexed, and are willing to go in for it themselves, they can hold on till we go on the voyage up to Washington, and then, when we return if they are willing, the banns can be solemnized. (Mr. GRAHAM. That's it.) When our next Legislature meets, they will elect their members and the Legislature may be Democratic. We may, by this very act, send two Democratic U. S. Senators to Congress; and there will be some other Territory that will knock for admission, and they two act in ushering in another pro-slavery State. Suppose we keep them out, and send two Republicans to Washington, and this good portion of territory that has been tendered to us have a majority of Republicans, and when Nebraska is admitted they will send two more Republicans up to Congress, and thereby our stakes will be strengthened. Gentlemen, it has been said that this is a political hobby. Was not the Lecompton Constitution purely tyrannical? And now will these men come up here and say "shame" in our faces? It does seem

[*162] to me if any people in the world ought to cover their *heads and beg to the Republican party, they are those who have tyrannized over the Republican party in Kansas. In Congress they fixed it, as they thought, to make Kansas a slave State; but when they sent men into Kansas, they found they had been whipped out on their own ground—they found the line fixed too far up for a slave State. Take on some north, and they will cut off a fifty mile strip from the south and put us with the Cherokees—a slave nation. We are willing to indulge and permit these Democrats to take part in the deliberations of this Convention, but we say they don't deserve it.

Mr. J. BLOOD. Mr. Chairman, I wish to say only a word or two. In the first place in regard to the proposition offered by the gentleman from Riley (Mr. Houston) to extend our western boundary to the summit of the Rocky Mountains. I think it is not necessary to discuss that question, for I presume there are but very few gentlemen who would think for a moment of including a large number of people who have expressed a desire to be left out. I have no disposition to force into the new State of Kansas an unwilling people, separated from us as they are. But in regard to the northern boundary, it has been said that there has been no argument used against the extension of our northern boundary, except those of a political consideration. Mr. Chairman, the people of Kansas, in the portion I in part represent, are almost unanimously opposed to the extension of the northern boundary, for other considerations. I believe three-fourths of the people of Kansas are opposed to an extension of boundary in that direction. I have been more than anxious to listen to some arguments in favor of the proposed extension. We have been told that it is proposed to give a large tract of country. I don't understand we are to receive anything. The proposition to give is an imposition. No such thing is contemplated. The simple proposition is to extend the boundaries of the future State of Kansas; and the simple question is, is it beneficial? I think it can be only in one way—that of adding something to help us pay the taxes of government. And will not annexation increase the expenses of government in proportion to the increase of the value of taxable property? It strikes me so. Then I can see no advantage to be gained Our commercial interests are not pointing in that direction; our railroad interests are not in that direction, so no advantage is proposed except this one of taxation; and in my opinion the annexation would not lessen our taxation. The increase of expenses would be about equal to the increased revenues from taxation. But there are some political considerations that interest the whole country. It is only necessary, Mr. Chairman, to look round and see who are advocating this plan of annexing this strip of country, to understand, to know where the plan originated. There is this consideration: with the present boundaries of Kansas, the prospects are she will go into the Union a free State, and in a short time Nebraska also —and both free Republican States. But by this little arrangement, fixed up by the Democratic party—fixed up by Democratic politicians, and advocated by nobody else—the pro-slavery party of this nation has planned this scheme. There is a probability that it may work in this way: take twenty-five thousand population from Nebraska, and it must retard her admission into the Union for a number of years; and by taking off the south part of Kansas and annexing it to the Indian Territory, would make a slave State. For four years the Democratic party have been trying to form a plan to make another slave State. I presume intelligent Democrats know this. Two pro-slavery Senators from the new State

[*163] south of us, and two from *Kansas, would make a material difference in the complexion of the U. S. Senate from what it would be with Kansas and Nebraska free Republican States. I think there is a great deal of political importance attached to this question. Gentlemen say, men should be ashamed to raise this question. They get up here and say that it is not for political purposes, but simply for the interest of the whole people; while the people say, "we don't want this thing." It seems that the people don't know what they want as well as the Democratic party knows. But believing as I do in the intelligence of the people of Kansas, and that more than three-fourths or four-fifths of them are opposed to the extension of the boundary of Kansas north, I oppose it.

Mr. KINGMAN. If we add this one-third to our territory, is it proposed to add a proportionate amount to the grant of lands by Congress?

Mr. J. BLOOD. No, sir, not that I know of.

Mr. STIARWALT. Mr. Chairman, I desire to say a few words, as I expect to vote on this question. I must confess, if I have heard it all, that this must be a Democratic move. I have heard Republicans and Democrats that are in favor of admitting Southern Nebraska, and but one sentiment prevailed; and that was, that it is a strip of territory very desirable. Gentlemen say this is a Democratic move, and for no other reason in the world than that Democrats support it. Democrats cannot get up and vote together here on any question without the opposition saying it is a Democratic move; and we must not vote together at all, or they will say every move is a Democratic move. I will give my reasons for voting for this admission. I am not for taking land into the Territory as proposed by the gentleman from Riley. (Mr. Houston). I do not desire it; but what has led me to vote as I do, is this: I remember, when I was a young man, the Governor of my State calling out the Militia—and for what purpose? Why, to march to the boundary line of Michigan because there was about twenty miles of disputed territory between the two States. I found both States had called out their militia, and other States came in to stop the matter. And what was it all for? For twenty miles of territory. In 1839 or 1840 the same thing occurred between Iowa and Missouri, in consequence of disputed territory (I forget the amount) and each State had their men marshalled on the line. Between two slave States, Tennessee and Kentucky, we find a similar transaction. And consequently it does seem to me if this strip of land is very valuable we ought to claim it while we can, undisputedly. But who gets up this scheme? It is the Republican party, and nobody else. A gentleman moved, in the Republican Legislature last winter, to memorialize Congress upon this subject. A Republican gentleman got up that motion, and did you hear of anybody going against that motion? If you did, why did they carry it and memorialize Congress to receive that portion of Nebraska into Kansas? This move came from the Republican party, but I venture to say that, had it originated with the Democratic party, the measure would not have been carried. No, gentlemen, I cannot oppose it and go back to my constituents. The question with us was long since decided. I desire to put the boundary of Kansas so that she shall have a fair boundary. We ought to ask for a good deal of land, and we ought to have a great deal to get it out of. I did suppose there were some gentlemen here who would rise above party on this question. I think our Democratic members have ever been Free State men. They have worked just as hard, and have voted just as strenuously against the pro-slavery party as have the Republicans. A ma-

[*164] *jority of all that stand upon this floor have been against the pro-slavery party. When I vote with the other party I vote Democratic sentiments, but I don't change. I wish these men to be set right. They tell me they never will vote for anything but a free State. Democrats are as good as Republicans upon this question. And although this is not the course I have sometimes taken, it is just my feeling now. This question is all-important. It gives us a good, rich strip of country. Now, with regard to the speech of the gentleman from Southern Nebraska to-day (Mr. Taylor), I believe that man, every word he says. He comes here and risks his reputation upon the assertion that Southern Nebraska is Republican. And I believe him to be as good a Republican as anybody in this house. He stakes his character upon this floor for the truth of his assertions; and yet gentlemen say he comes here with a political trick! If I have made a right calculation, it would make this river (the Kaw) the centre of the State of Kansas. Is there any reason in the world why we should not do it? They say "we have a power in the south and we will cut you off in the north." Sir, I come here as a representative of the people, and when I speak the word "people" I mean the whole people. I will venture to say to-day, that when Kansas——

Here the chairman's hammer fell, under the ten minute rule.

Mr. RITCHIE. Mr. Chairman, it seems to me that this discussion is all for buncombe. I don't see any possibility of our annexing that section of country, if we desired to do so. We are without the power here to do this thing. And why is this thing so strongly urged, if there is not an object? Gentlemen say here, will any man get up and say that party has anything to do in things in Kansas? Gentlemen, I do not know whether the Republican party will assert any such thing or not, but there is one man in Kansas that will stand up and face that question, and say, I know that party has something to do with these things. I for one believe, that, when that natural boundary was not observed, this Administration had in its eye to make a slave State south of the Platte; and I believe that gentlemen thought so at the time. But now the circumstances are different. We are asking to come into the Union as the free State of Kansas. When the gentleman from Southern Nebraska (Mr. Taylor) was speaking about their patriotism, my heart was made glad because of their assistance in helping those men to fight liberty's battles here in Kansas. I feel that while I speak of this thing as a partisan (I do not speak of it as to individuals) there are men yet remaining in the Democratic party who have not sympathized with this oppression that would inflict upon a fellow man the chains of slavery. I hold, then, that we have no power to admit this territory into our State government. Suppose that we submit the question to a vote of the people, where does that place it? I believe, according to the argument presented here, that before they could possibly have an act from Congress admitting them and declaring them a part of the State, they could have a voice in our Legislature. Well, if not, let us get in as a Republican State, and if they are Republican up there, and it is to the interest of the State at large, we shall be just as willing to help them then as we could be now. I do not hear that they are going to make plans to come into the Union sooner than we. It will be in good time then. I dislike to hear assertions made about individuals being covered up by party feeling. I have seen very little of this, but it is true. And when I hear men get up here and stigmatize the idea of bleeding Kansas, as a slur upon Kansas, I think it ought to be met, not in a party sense, but as the truth of history, that history may not be misrepresented. I think it ought

[*165] to be *written in the history of Kansas that this bleeding was blood. I would ask my friends here, who has not heard of the bleeding of Brown; the murder of McOnot; the death of Dever; and the death of Porter? And I want to know if some of us did not listen to the shrieks of that woman who has not dried her tears up yet? And now we are urged to go into a government and be ruled by that party whose hands are stained with such work as this. No, gentlemen, take off that arm first! (Mr. Graham. That's it!) I never speak as to party. I have no party feelings, my friends. This Democratic wing knows that when I agree with them in principle I indicate that principle; and I expect to be in such a mood and state of mind that one of my principles shall be to extend equal rights to every race and color, kindred and tongue. I am not confined to little Democratic caucuses, nor to Black Republican caucuses, unless they are right; and let that principle drive us all along, and then perhaps you will get me into caucuses. When you allude to an administration, that is black in crime, I think of the days when we saw one hundred men of Kansas prisoners for no other reason than that they dared to throw back the pro-slavery schemes where they belonged. Gentlemen, you are not all partisans here backing up that Administration, but if you are not in that category then I charge it upon you. If you do not support this from any political measure, but will leave it to a popular vote of the people—presently, I would have no objections, but not at this time. I think it out of season, altogether.

Mr. FOSTER. Mr. Chairman, if I had the eloquence of Demosthenes or the logic of Cicero, I should not presume to make a speech as hot as I now am. I rise to make an inquiry. I understood the gentleman from Anderson (Mr. Blunt) to make a charge of bargain and sale. It was done so indefinitely that I was unable to understand it fully. If it is his pleasure, I wish he would make his charge more explicit. I do this with the design of moving a committee of inquiry, and if there is any truth in the charge I want it brought out.

Mr. BLUNT. I will just state that it had reference to no member of this Convention making any such proposition. I stated it was a member of the Democratic party in high official station in this Territory; but, inasmuch as it has no reference to any member upon this floor, and as I exculpate every member upon this floor from having made any such proposition, I do not think it best to make any further statement.

Mr. FOSTER. Perfectly satisfactory.

Mr. HOUSTON. Mr. Chairman, I would like to have the last speech upon this question. I don't wish to crowd my views upon the Convention, for I think you are all well qualified to judge upon this matter, and for that reason I would rather not speak, but there is a magnitude about this question that demands our best thought. Now it has been urged that it will make our State election Democratic. Let us see how it will work. We make this Constitution, and it is to be submitted to a vote of the people in November when we vote for Territorial officers, in December we elect State officers, and there is not a particle of provision, and no man proposes to give Southern Nebraska a voice in those elections. Then, of course, she will not have a voice in the election of United States Senators. These Senators must be elected by the voice of the freemen of Kansas. How can they get a vote? They cannot bring to bear a single vote before a year from next winter, admitting that we should be admitted this winter. Some can vote against that region because it will be Democratic. These votes will be counted in the Territorial election next fall, and your imaginary

line will not affect you in the least. We have no authority here, our Constitution is nothing but a dead letter until the people breathe into it vitality. Until that is done, most emphatically, our imaginary line counts [*166] but nothing—the people will vote whether we exclude *or include them. I don't know but it will go Democratic. I think it will go Democratic, for I am afraid we will show our incapacity for the hour in which we will live. I believe there is no question of such vast moment to the Republican party as this one. I would be willing to take it and go before the people on it. I might be beaten once in Southern Kansas, but before the battle was through, if I had talents equal to my opponents, I should succeed with the main part of Republicans on the north side of the Kansas river. My impression is that the votes will show that Republicans on the north side of the river are not Democrats; that they are as reliable as those on the south. Gentlemen seem to get up here and have the cry which reminds me of little children. They get up and repeat the old story—"we will fall into the hands of the slave power." "We have been injured by the federal government." But, gentlemen, I do think such groundless fears the most foolish of all arguments that I have ever heard. For us to suppose that when we have a Republican Congress, the Republican House of Representatives will be divided and throw off part of this Territory! It is absurd. The Democratic party dare not do it, for they have almost annihilated their party on this ground. But the Democrats show their shrewdness in advocating this measure of annexation. They see the thing in a moment, and would be glad to be aiders, because they know they can sustain themselves before the people upon this. I am a Republican, and I am unwilling to let the Democratic party have the glory of this measure. I am sorry to have you give this measure up, and call it a Democratic measure, because it is only to give them the power and glory of it. It is a long lane that has no turn. How large would a State have to be to be too large? You can have a perfect network of railroads over this State—you can run a railroad from here to the mountains in a few years. Is that too large? When the gentleman says that the agricultural interests do not want any connection with the mining interests, I would like to know if he don't want to carry his corn to the mines and get money for it?

Here the Chairman's hammer fell, under the ten minutes rule.

Mr. KINGMAN. I move that the gentleman be allowed to proceed.

The motion was agreed to.

Mr. HOUSTON. Thank you, gentlemen. I have an interest in this thing.

Mr. J. BLOOD. Mr. Chairman, I move that the gentleman from Riley be allowed a half hour.

The motion was agreed to.

Mr. HOUSTON. Why, gentlemen, we want this connection in the agricultural region; and should be glad to have a connection of this sort that we might get the highest possible price for our products. This is the way to give our young State strength and vigor. One would suppose from what gentlemen say of the country, that it was a God-forsaken desert; that the lightnings of heaven had poured their streams of death upon it for centuries. But what are the facts? Almost every one that goes out there tells us that it is covered with immense herds of buffaloes as far as the eye can reach, over a vast extent—north, south, east and west. I believe I have as much respect for the buffaloes' opinion as I have for the gentlemen's here, in regard to that country. Who ever heard of wild animals

seeking a home that is perfectly barren? Why, the grass must be extremely nutritious there. I believe that cotton can be raised on these plains, that will supply the demands of the whole country. When we get a railroad out there, can't you tax these herds? When you run a railroad out there let men make a business of herding. You know very little about that country. There are mines and salt springs there. One gentleman remarked to me a short time since that he had written hundreds of letters to the East, telling them to come on here; that we wanted to make a path- [*167] way to the Rocky Mountains over this very country we *are now proposing to give away. I would keep it till we found out all about it. Who ever heard of a man cutting off part of his farm before he had examined it? Now, gentlemen, this Territory may be too large for certain schemes of partisanship, but it is not too large to make a grand and a glorious State for the people, and for the interests of the people.

We are told by one gentleman that to take in all the proposed territory will lessen our chances for admission. Now, gentlemen, it is very strange that two men may reason upon the same subject, and yet come to different conclusions. I believe it will aid us to come in. The impression has gone out that it ought to take ninety or one hundred thousand persons, before a Territory can come into the Union. Such a law ought to be applied to every Territory. We would have had peace and quiet here if it had been on the statute book before we were a Territory. But now what are the figures in reference to this? I have inquired how many votes there were cast at this last election, and I find there were only nine thousand and ninety-three. Grant that all did not vote. Add one-half more and you have fifteen thousand voters in Kansas. How many population will that be? Well, I don't believe that we have more than three times that; that is, I know from the agricultural region there is a voter to every three persons. Suppose it was so, what do you have? Why, forty-five thousand persons, all told; and gentlemen, there ain't a particle more in Kansas to-day, if the last one were dragged out. You go up to Congress, and the consequence will be you won't have the requisite population. Take in the people from Southern Nebraska, and that fifteen or twenty thousand people will settle the question at once; and I should favor that annexation on that account alone; for that is a strong argument. We never have proposed to ask for more than a memorial, that might be referred to a committee in Congress, or laid on the table, or under the table; and the Constitution run through without any reference to it. Our Legislature will meet in December, and this question may come up before the people, and the Legislature may memorialize Congress again. And if you don't want it, Congress will not let you have it. It does seem to me that we have a golden opportunity to place ourselves in such an enviable attitude; and it does seem to me most unwise to reject it.

Gentlemen talk about the railroad and commercial interests being affected by the proposed annexation. I am not so well posted in commercial matters as some of you, but I think it would be a wise plan to make a railroad down to Atchison. When the north is pouring into the bosom of our territory, as she is, I think we ought to get railroads into the State as quick as we can. Get railroads under way, and they would be the highways of the nation for years to come. Instead of waiting till capital from the east completes them, away up there in Nebraska, we ought to set to work and build them here. I think there is a question of some magnitude in the consideration; whether you concentrate this line from east to west in Kansas, or whether you let it pass up north. There is commerce in

that—and there is glory and wealth in it. We are not providing for Nebraska here. The people of our Territory sent us here to make a Constitution for the future State of Kansas. It becomes us, then, to make a Constitution for the people of Kansas, and we can't shift the responsibility. Don't let us come up with a few square acres. If you have no better arguments than you have advanced here against increasing our area, hide them. Let us have some real objection, if you have got any. It won't do to tell the people in the south part of Kansas, that you were afraid. This won't satisfy the wants of the people five years from now. Look at it in all its bearings, and act upon it as men commissioned from on high to perform a great, solemn duty. I thank you, gentlemen.

[*168] Mr. BURNETT. Mr. Chairman, I do not in*tend to weary the Convention, although I deem this subject of great magnitude. Although I can't appreciate the logic of the gentleman, (and I should beg his pardon, perhaps, for not doing so), yet I think we have good reasons why we object to this measure at the present time. I hail from Bourbon county, and when I stand up here I shall endeavor to give some reasons that I have for objecting to this measure as a representative of Bourbon county. Now, gentlemen, the people of Bourbon county deem it to be of the greatest importance that we shall first obtain admission into the Union. The government saw fit in the organic act to establish the boundaries of Kansas, and gentlemen, for one I am willing to seek admission into this Union first under the boundaries prescribed by that act, and any mutilation would only have a tendency to distract and divide the people in this matter. I think one object of these gentlemen, in lumbering up the Constitution with all these side issues, is to so distract the people as that they will vote against the Constitution; and then the ends of certain partisan interests will be answered. I do not say this is the object of men upon this floor, but I do say there are interests at work, and perhaps these influences have been brought to bear upon most of the delegates in this Convention, in order to bring about the defeat of our admission as a State. We want the plain, naked issue presented to us, in respect to our admission as a State under our present boundaries—and we want no side issues to enter into the question. What is the nature of this question of boundary lines? What is its natural effect? We know there can be nothing in the world so well calculated to divide the people as questions of this character. How often it is that sections of country are divided up by sectional considerations! There can be no question sprung upon these people better calculated to divide the people than this question of the annexation of a part of Nebraska.

It has been claimed that this is a Republican measure; but I don't wish to treat the question in that view. In the light of a partisan, no less than as a representative from Southern Kansas, a section of country that has been almost wholly unrepresented in the legislative bodies of the Territory, I think I have a right to say a word on this subject. This is the first deliberative body in which Southern Kansas has ever had a representative. No sooner have we obtained a representation here than a question is agitated which is to determine for the future, whether we shall have any influence in deliberative bodies in the future. We understand that questions of great importance will come up. If we come in as a State, we may have the good luck to have the question of a railroad grant to dispose of. We have a right to look at it from a local point of view, and I would ask if it would not be natural for a sectional feeling to influence the disposition of grants of land for railroads? And we desire to look well to the future influence of Southern Kansas. Gentlemen, all that I

ask is, that we seek admission under our present boundaries. We are satisfied with them at the present time; and after we have once obtained admission into the Union, if the general good requires the admission of this portion of territory, I see nothing in the world to prevent it. The gentleman from Riley (Mr. Houston) appears to be favorable to railroads. He thinks that to extend our western boundary to the twenty-third meridian, that marginal line forever cuts off all commerce with the western region. He talks also about his wheat, about agricultural products, and asks gentlemen if they would like to have the gold regions cut off so that he could not sell his wheat! There is logic in this! When the gentleman gets out there with his wheat, he runs butt up against this imaginary line, and has to turn about and bring back his agricultural products to Manhattan for a market! Suffice it to say, I think the gentleman's logic will not have very much effect upon the minds of gentlemen of this Convention. I do not wish to take up the time of the Convention. I think [*169] *we ought to come to a determination to-day. We ought to go home by the close of another week, and I feel anxious to come to a conclusion immediately.

Mr. THACHER. Mr. Chairman, I suggest that we rise at a quarter to six o'clock, and close this debate.

Mr. WRIGLEY. I move that the committee rise now and report progress.

Mr. GRAHAM. I move to lay the motion on the table.

Mr. WRIGLEY. (*Soto voce.*) I thank the gentleman for his courtesy.

The motion was laid on the table upon a division—affirmative 22, negative 16.

Mr. HOUSTON. Mr. Chairman, I have been indulged more than my time, but I must say that I think the suggestion of the gentleman from Douglas (Mr. Thacher) looks like curtai'ing debate. I think it but courteous that every gentleman should have a chance to speak upon this question.

Mr. J. BLOOD. Mr. Chairman, I think gentlemen have got through. I don't suppose they are disposed to debate further on the opposite side; and I am anxious to close this debate as soon as we can. If we can get through with it to-day I think it would be better, so as to be able to take up some other business on Monday. For this reason I favor the proposition.

Mr. FOSTER. Mr. Chairman, it seems to me that this is another gag rule. I have no desire to make any remarks this afternoon, but I know of several gentlemen who are anxious to speak. Gentlemen have gone on time farther than the rule of the gentleman from Osage (Mr. Winchell) permitted; and I think we should let the discussion extend to the adjournment.

Mr. THACHER. The only object is to get through some time. I propose that we let you discuss it to your heart's content till a quarter before six.

Mr. FOSTER. I move to lay it on the table.

This motion was lost on a division—affirmative 16, negative 20.

Mr. THACHER. Mr. Chairman, I think the charge of "gag," upon as liberal a majority as we have here, is one most unnecessary and ungenerous. I have never heard of so decided a majority extending, as we do, every courtesy to so small a minority. We stand in relation to the other side about two to one every time.

Mr. FOSTER. I submit to the gentleman that the charge of gag rule

came from his own side of the house. The gentleman from Anderson (Mr. Blunt) was the first man to make the suggestion.

Mr. THACHER. The gentleman from Doniphan (Mr. Wrigley) said it was a gag law made for the benefit of ignorance and imbecility.

Mr. WRIGLEY. Mr. Chairman, I desire to say that that remark was made some time ago, but after the suggestion of the gentleman from Anderson. I certainly have been disposed to extend to gentlemen on the other side of the house every courtesy. I have been disposed to conduct myself with decorum in this house, and to treat the majority with all the courtesy which I was capable of extending. It has occurred to me that the majority of this Convention cannot claim that they have been disposed to treat us in the same manner. It has occurred to me, that on several occasions, they have been disposed to put on this gag rule. They have adopted a fifteen minute rule in the Convention, and to-day, in committee, they dropped to ten minutes. I am not very familiar with parliamentary bodies, and have taken no prominent part in the proceedings of this Convention, but I believe gentlemen would find it a difficult matter to find where a majority has ever ruled a minority to ten minutes in committee of the whole.

Mr. THACHER. I would call attention to the 40th rule. There can be but one question before the committee. "All questions relating to the priority of business shall be decided without debate."

[*170] The CHAIRMAN. The chair understands that *there is but one question before the committee, and that unless objection is made, the permission of the chair will be given to any other gentleman who desires to speak.

Mr. GRAHAM. I would ask what the question is?

The CHAIRMAN. The question is upon the motion of the gentleman from Douglas (Mr. Thacher).

Mr. THACHER. I withdraw it.

The CHAIRMAN. There is no question before the committee.

Mr. WRIGLEY. Mr. Chairman, I move that the committee rise, report progress and ask leave to sit again.

The motion was agreed to.

The committee accordingly rose, and the chairman reported accordingly.

Mr. THACHER. Mr. President, I move that leave be not granted to the committee of the whole to sit again on this question.

Upon this motion the yeas and nays were demanded, and being ordered and taken, resulted—yeas 25, nays 19—as follows:

YEAS—Messrs. Burnett, Burris, J. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Ingalls, Kingman, Lillie, Lamb, McCullough, Preston, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams—25.

NAYS—Messrs. Arthur, Blunt, Barton, Foster, Forman, Hubbard, Houston, Middleton, Moore, McDowell, McCune, McClelland, Palmer, Parks, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—19.

So the motion was agreed to.

Mr. STINSON. Mr. President, I move the Convention do now adjourn.

The motion was rejected, on a division—affirmative 18, negative 21.

Mr. STINSON. Mr. President, I move that the question now under discussion be postponed till Monday next; and in support of this motion I have to offer a few remarks. The question under discussion is one of the greatest magnitude that has yet been presented to this Convention, and one which requires the most mature and deliberate action on the part of every member of this Convention. As I understand the question, it is this: whether or not we shall cut off from Kansas a portion of territory lying west from us, and thus diminish the present territorial limits when we come into the Union as a State. I deny the right of this Convention to do any such thing; and I ask whether you stand here as representatives of different sections of the country, or are you here as representatives of the Territory of Kansas?

The PRESIDENT. The gentleman will address himself to the Chair.

Mr. STINSON. Mr. President, I say this Convention represents the Territory of Kansas; and the members of it are not simply the representatives of Douglas, Shawnee or Leavenworth, in the separate interests of these counties, but are to represent not only the interests of their counties, but both their interests and the interests at large of the Territory of Kansas. I say this portion of Kansas proposed to be cut off is as much part of the country which you represent as the one upon which we are now convened to frame a constitution for the people of the future State of Kansas. Are not the citizens of that country to vote for or against this constitution? Will not the people beyond Fort Riley have the same right to vote as your own constituents, upon this question? And do you suppose they will agree to your construction of a constitution in which they can have no interests? I say this Convention has seen fit to bind itself by law, and when we have stood up here and demanded justice and equity upon behalf of our western territory, we have been met with arguments to cut it off. I ask you to abide by the bond which you have written for us. You must stand up well to what you have so strongly held us. For what purpose were you called here?—to frame a constitution for a certain portion of the State of Kansas? Would that be consistent with the oath of office which all the members of this Constitution [Convention?] have [*171] taken *upon themselves? It binds them to no such thing. The present convention came here to frame what? A constitution for the present Territory of Kansas—a constitution, rather, under which the present Territory shall come into the Union as the State of Kansas. And do gentlemen stand here and say that under the law calling us together, they have a right to cut off a portion of this Territory, because, perchance, there is no delegate here from Minneola and Mantano, standing upon this floor to defend the rights of their constituents? Do gentlemen claim that it is our right to say where that line shall be? I tell gentlemen that there is one thing above all others which binds us, and that is the duty to act for the present Territory of Kansas. We are not a State yet; we are a Territory; and you stand here the representatives of that Territory. And further, gentlemen, allowing that you have the right—that it is your high privilege to dissever this Territory—I ask you, is it politic? For what purposes would you dismember the Territory? I know not how many square miles—two or three hundred miles wide and two hundred and ten miles long, is to be cut off. What will you say to your constituents? What argument, will you tell them, induced you to dissever the richest gold fields ever discovered? I have got to hear the first argument adduced in favor of this proposition. I have heard gentlemen talk about Republicanism and Democracy; but I ask this Convention what has Republicanism or Democracy to do with

this question of boundary? I say that when members of this Convention come here and seek to bind us by party lines, they are stepping outside of the record. I don't claim, in ordinary matters, to be any more above partisan considerations than other men—I am a Democrat, and proud to proclaim it here. But when I come to resist the measure of cutting off this territory, I do not do it as a Democrat but as a representative of the people of Kansas, and as a man whose duty it is to represent the true interests of that people. Now, gentlemen, suppose you cut this off, what do you gain by it? When all agree that the convenience of parties—

The PRESIDENT. The gentleman will confine his remarks to the question.

Mr. STINSON. I design to go on to show the political bearing and then proceed—

The PRESIDENT. Unless the gentleman confines his remarks to the question, the Chair is forced to rule the gentleman out of order.

Mr. STINSON. Having been thus ruled out of order, there is one further proposition I desire to lay before the Convention, and that is this: You say you are fighting this proposition as a party; that it is a party measure, because it is going to build up the Democratic party. I tell you, gentlemen, make the limits where you please, and the Democratic party will go before the people of this Territory and throw it into the teeth of the Republican party—

The PRESIDENT. The gentleman is out of order. He should confine his remarks to the question of postponement.

Mr. STINSON. I was about to proceed to that subject after illustrating my general considerations sufficiently on the western boundary question.

The PRESIDENT. The gentleman must speak to the question.

Mr. STINSON. Then, Mr. President, having somewhat briefly illustrated the importance of the questions now under consideration—yielding always to the decisions of those in authority, I propose to advance some few reasons for postponing the matter till Monday. Mr. President, as I was about to remark—the clock is warning us that we have but fifteen minutes to spare. Under these circumstances, and with but fifteen minutes to discuss a measure of so much importance—with this important question before us, gentlemen come here and seek to divide up our territory, and make us discuss a question involving millions of square miles of territory in fifteen minutes! It is impossible that justice could be done to this [*172] question in *that short space of time. Having urged the importance of this question (as I believe with some force) the necessity of postponement must be apparent. I ask members to extend to us the courtesy we claim. But I was about remarking, gentlemen, upon the utter impossibility of discussing a question here involving the boundaries of this Territory—the most important question which has been raised here this session—in fifteen minutes! Yes, it is now but twelve minutes! You know, sir, that it cannot be done to-day. The gentleman from Riley (Mr. Houston) in making a few brief remarks submitted by him, was compelled to have the time extended twice—the last time for thirty minutes.

Mr. BLUNT. In order to obviate this difficulty, as gentlemen claim they have not time to discuss this question before the hour for adjournment, I move that the rule for adjournment at six o'clock be suspended for to-day.

The motion was agreed to, on a division—affirmative 24, negative 10.

Mr. STINSON. I move that the Convention do now adjourn.

The motion was rejected.

Mr. STINSON. Mr. President, I move the reference of the subject under consideration to a special committee of three.

Mr. GRAHAM. I move to lay it on the table.

Upon this motion the yeas and nays were demanded, and being ordered and taken resulted—yeas 25, nays 18—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, J. Blood, Crocker, Dutton, Graham, Griffith, Hanway, Hutchinson, Hoffman, Ingalls, Kingman, Lillie, McCullough, Preston, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams, Burris—25.

NAYS—Messrs. Barton, Foster, Forman, Greer, Hubbard, Houston, Middleton, Moore, McDowell, McCune, McClelland, Palmer, Parks, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—18.

So the motion of reference was laid on the table.

Mr. THACHER. Mr. President, I move that the Preamble adopted in committee of the whole, and also the boundary question, as set forth in the report of the committee on Preamble and Bill of Rights, with the amendment striking out "twenty-fifth parallel" and inserting "twenty-third meridian" be adopted. And upon that I call the previous question.

The demand was seconded on a division—affirmative 25, negative 16.

Mr. WRIGLEY. We would like to get the eye of the Chair on this side of the House.

The PRESIDENT. The Chair has uniformly manifested even partiality towards the gentlemen on the Democratic side of the House. He does not desire to hear any insinuations to the contrary, considering them ungenerous and discourteous. The Clerk will read the Preamble.

The Preamble and amendments having been read—

Mr. Thacher's motion was agreed to, on a division—affirmative 25, negative 13.

Mr. KINGMAN. Mr. President, I move to reconsider that vote, and I move again to lay that motion on the table.

Mr. STINSON. I desire to be heard one moment upon this question.

Mr. KINGMAN. The gentleman is out of order.

Mr. STINSON. I ask the leave of the Convention to be heard.

Mr. KINGMAN. I rise to a point of order.

The PRESIDENT. The gentleman is not in order. The motion to lay on the table would preclude the gentleman from speaking, if the previous question did not.

The yeas and nays were demanded, and being ordered and taken resulted—yeas 26, nays 18—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hanway, Hoffman, Ingalls, Kingman, Lillie, McCullough, Preston, Ross, Ritchie, Signor, Stokes, Simpson, Thacher, Townsend, Williams, Mr. President—26.

[*173] *NAYS—Messrs. Barton, Foster, Forman, Hubbard, Hutchinson, Houston, Middleton, Moore, McDowell, McCune, McClelland, Palmer, Parks, Stinson, Stiarwalt, Wrigley, J. Wright, T. S. Wright—18.

So the latter motion of Mr. Kingman was agreed to.

And then, on the motion of Mr. Thacher, the Convention adjourned till Monday morning at 8 o'clock.

MONDAY, July 18, 1859.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

The absentees on roll-call were Messrs. Brown, Burris, Greer, Griffith, Hutchinson, Ingalls, Lillie, May, Perry, Ritchie, Stinson, and Wrigley.

The journal of Saturday was read and authenticated.

THE WYANDOTTE REPRESENTATION.

Mr. MCDOWELL. Mr. President, Mr. J. E. Bennet, one of the members of this body from Wyandotte county, is present, and as a matter of privilege desires to address this Convention.

The PRESIDENT. The Chair is scarcely of opinion that the application could be regarded as a point of privilege in any strict acceptation of the term. But unless some member objects, he will permit Dr. Bennet to proceed.

Dr. BENNET commenced his address by adverting to his knowledge of the proceedings of the Convention in the case of the Wyandotte delegation through these reports—his purpose to decline the tender of an honorary seat, and to offer his reasons for so doing; and knowing, as he assumed, that the large Republican majority in the Convention decided the questions upon partisan principles, it would have been useless for him to spend breath in talking to a set of men who were proceeding upon the principle of deciding how they would vote in a given case, in advance of any knowledge of the facts.

Mr. ROSS (interrupting). Mr. President, I rise to a point of order. It is a personality—a reflection on the majority of the Convention, for the gentleman to charge them with prejudging his case—deciding it in advance of any knowledge of the facts.

The PRESIDENT. The Chair understands the position of the gentleman from Wyandotte, occupying the floor at this time, as being an act of courtesy on the part of the Convention; and that it is competent for any member of the Convention to object to the floor being thus occupied out of order, and to the exclusion of the regular orders of the day. But, as the Chair has already announced, so long as no member objects, as a matter of course, Dr. Bennet will be entitled to proceed. At the same time the Chair is under the necessity of requesting the gentleman from Wyandotte to so shape his remarks as not to become subject to the objection of members.

Mr. SLOUGH. Mr. President, I would like to hear the rule read which admits the Wyandotte members.

The PRESIDENT. The gentleman rises under a privilege of the floor, by unanimous consent. The question has no connection with that resolution.

Mr. THACHER. Mr. President, I understand that the gentleman from Wyandotte rises here in virtue of the honorary seat which has been tendered to him, and that his rising here is a virtual acceptance of the honorary seat. I know that any member has the right to resign, but, of course, he alone is responsible for the act.

The PRESIDENT. The gentleman is correct. The gentleman from Wyandotte comes in under the resolution giving an honorary seat, which he thereby accepts. It is also true that he may vacate or resign it at any time.

Mr. STINSON. I would inquire whether it is not competent for the gentleman from Wyandotte to state his reasons for his resignation.

The PRESIDENT. After the regular order of business shall have been gone through, it might then be competent and in order for the gentleman [*174] to make his statement. But he proposes *to make it now out of order, and is a question of privilege entirely.

Mr. GRAHAM. I object to the gentleman proceeding out of order.

Mr. SLOUGH. I take it, that the rules of this Convention may be suspended by the acquiescence of this body, without a formal motion for a suspension. The rules prescribe a certain order of business each day. That order, by a unanimous consent, has been varied to give the gentleman from Wyandotte an opportunity to make a statement; and no gentleman has now a right to object to his right to proceed, unless his language is insulting to the House. Then he should be called to order, and confined to the terms of legitimate discussion. But it seems to me now too late for any member to object to his mere occupancy of the floor.

The PRESIDENT. In the opinion of the Chair the gentleman from Leavenworth is correct. Objections should have been made at the time the consent was granted. The gentleman from Wyandotte will proceed.

Mr. BENNET proceeded with his statement, and closed by presenting a paper signed by himself and Dr. Welborn, the other honorary member elected from Wyandotte county, protesting against the action of the Convention in the case of the Wyandotte representation, and declining to accept honorary seats—which was read.

Mr. KINGMAN remarked that though this subject was out of order, and did not call for discussion, he desired to say a word in the matter. It should be considered that this body had given its business into the hands of standing committees, and he supposed that, whenever the action of any of these committees became distasteful, or whenever the committee became unfaithful, its functions might be taken away. But while the committee retained its functions every attack made upon its action must be regarded as personal in its character. There was one thing he wished to state, here and now, and which he thought it became him to state, because of his connection with the committee whose action had been just called in question. The statement presented, and the remarks of the gentleman with regard to the action and report of the committee and the proceedings of the Convention in the Wyandotte case, were entirely false—false in whole and in part—in every word and statement, from the beginning to end. They were based upon a misunderstanding and a misconstruction of the case, and were false in part, and false in whole, on all the premises.

THE PRESIDENT. What shall be done with the protest?

Mr. STINSON. I move that it be entered on the journal. (There was no second to this motion).

Mr. THACHER. I move that the remarks of the gentleman from Wyandotte, and the protest submitted, be rejected from the record, as scurrilous and false.

Mr. STINSON. I move to lay the motion of the gentleman from Douglas on the table.

Mr. SLOUGH. I second the motion, and demand the yeas and nays.

The yeas and nays being ordered and taken resulted, yeas 16, nays 33—as follows:

YEAS—Messrs. Barton, Foster, Forman, Hipple, Hubbard, Moore, McDowell, McCune, McClelland, Palmer, Parks, Slough, Stinson, Stiarwalt, J. Wright, Wrigley—16.

NAYS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, T. S. Wright, Williams, Mr. President—33.

So the Convention refused to lay on the table, and the question recurred upon the motion to reject.

Mr. STINSON. I would like to know what has become of the motion previous to that of the gentleman from Douglas.

The PRESIDENT. The gentleman made no motion which was recorded.

Mr. STINSON. I desire to offer but a few remarks in relation to the [*175] action which the Con*vention seems to be disposed to take. I claim for these parties the sacred right of protest; and they have a clear right to enter upon the journal their dissent, and their reasons for dissenting from the action of an arbitrary majority. And when these gentlemen from Wyandotte come in here and resign, it is their sacred right, which only despotism can take away from them, to put their reasons for that course upon the journal of the Convention. Deeming this position to be correct, and knowing that no legislative body has ever denied this right, I ask the members of this Convention, whether a protest, clear in its terms and respectable in its tone, is to be denied admission to the journal, simply because it is presented here by gentlemen who hold political opinions different from the majority?

As a partisan, sir, I could hardly desire anything better for my party than that every man here, who is disposed to refuse this right, should put himself upon the record against it; and upon that, and various other records which have been made in this Convention, as a Democrat, I could go before the people of this Territory with the highest confidence and be sustained. As a partisan I could desire no better act on record—no better campaign document, than the record of this same refusal you are about to make. But as a citizen of Kansas, and a representative of the people, I stand here to enter my solemn protest against this motion to reject. As a member of the Convention, whose acts I desire should be approved, I ask you, sir, not to deny the right of protest to these gentlemen from Wyandotte. It is a right which cannot be refused without a despotic denial of the rights of man.

Mr. SLOUGH. I understand this motion to be a motion not only to reject the protest offered by the gentleman from Wyandotte resi ning his seat, but that it is also a motion to reject from the record the remarks made by that gentleman.

The PRESIDENT. That is the understanding of the Chair.

Mr. SLOUGH. Well, sir, I take a different position. It is this: while the Convention may have the right to reject the protest, they can have no right to reject the remarks of the gentleman. This has become a matter of record, if the Reporter has done his duty; and there is no way in which the object of this motion can be reached but by a motion to suspend the order for the employment of a Reporter. The motion, if adopted, cannot properly and legitimately reach the case of the remarks, while it may reach the protest. It seems to me that gentlemen who have voted against laying on the table this motion, are placing themselves in a strange attitude

before the country. It is this: that while, without a dissenting voice it has been provided in one of the sections of the Legislative article of this Constitution, that every member of the Legislature of the State of Kansas shall have the right, if he choose to avail himself of it, to enter upon the journal his protest against any legislative action, these gentlemen now propose to violate that principle, and by this motion prevent these gentlemen from doing the same thing! If the motion the gentleman has made is true—that the matter of the remarks and protest are "scurrilous and false," the complete report made by the Reporter will show this to be the case, and the Convention will not be censured. If, however, that should not be the case, and if the remarks and the protest tell the truth, they place themselves in an attitude that I would not like to be placed in. Sir, if this protest be true, there is no justification for the attempt to prevent this record from being made complete. If false, and you suppress it, your own partisan record will be made only the more complete. Then why exclude these remarks of Dr. Bennet, and give occasion for the charge that you have suppressed that which would expose the unfairness of your act? for it would carry that on its face.

Mr. BLUNT. I wish to make a statement of the reasons, which induce [*176] me to vote for the *motion of the gentleman from Douglas. On a former occasion, when we had this matter under consideration, and extended to these gentlemen from Wyandotte all the privilege in the province of the body to extend—that of a hearing before the Committee on Credentials—it was contemptuously refused. And when the privilege of honorary seats on this floor was extended to them by the passage of the resolution offered by the gentleman from Bourbon (Mr. Griffith) that extension of courtesy was opposed by Dr. Bennet's friends on the other side of the House. When this was done, I supposed that we should receive no further annoyance from this source. But I find I was mistaken, and I find the gentleman who refused these courtesies, and all the privileges which could be legitimately extended to him, comes in here this morning—not for the purpose of exercising the privilege extended to him—the privilege of speaking on all subjects connected with the interests of his constituents—but merely for the purpose of making his reasons why he refused to accept those privileges, and going into a lengthy harangue against the Republican party, making statements utterly false, in language scurrilous and indecent in tone, and declamatory in character against the majority of this Convention—and then asking that such remarks and such a protest shall go into the published proceedings and debates of this Convention. Sir, I feel that that is asking a little too much. I think it is asking a little too much of this Convention, after the manner in which they have been treated—after the courtesies which have been extended to them and which have been rejected and scorned—to come in here under the plea of privilege to make a statement, and then to ask that the political harangue thus delivered and composed of all the vile epithets known to the Democratic vocabulary, should go into the published proceedings of the Convention! On a former occasion I was one of the few members on this side of the House voting in favor of spreading upon the journal the protest offered by the gentleman on the other side against the proceedings in the Wyandotte case. I thought it proper that they should have this privilege. But I am not in favor of admitting a gentleman, who, having rejected the courtesies of the Convention, comes in abusing the majority of the body in the most scurrilous manner, to have the matter of his speech and protest go upon the records of the Convention. Consequently, I shall vote to reject the whole.

Mr. WRIGLEY. Mr. President, I move an amendment to the motion of the gentleman from Douglas, adding these words: "and also, that the remarks of the gentleman from Brown be rejected, for the same reason."

Mr. KINGMAN. Do you say these remarks were false, sir?—false!

The PRESIDENT (using the hammer). The remarks of the gentleman from Brown are not under consideration.

Mr. SLOUGH demanded the yeas and nays on the question of the adoption of Mr. Thacher's motion, and the same being ordered and taken, the vote stood—yeas 33, nays 16—as follows:

AYES—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, T. S. Wright, Williams, Mr. President—33.

NAYS—Messrs. Brown, Barton, Foster, Forman, Hipple, Hubbard, May, Moore, McDowell, McCune, McClelland, Palmer, Perry, Parks, Slough, Stinson, Stiarwalt, J. Wright, Wrigley—16.

So the motion was adopted, and the speech and protest were thrown out of the record.

LEAVE OF ABSENCE.

Mr. INGALLS. Mr. President, my colleague, Mr. May of Atchison, is laboring under severe indisposition, and will not be able to attend in the [*177] hall for a number of days, and I *desire to ask leave of absence for him for ten days, or until his health shall permit him to resume his seat on this floor.

The leave was granted accordingly.

ELECTORS AND ELECTIONS.

Mr. TOWNSEND, from the committee on Electors and Elections, submitted the following in print:

ELECTIONS.

"SECTION 1. All elections by the people shall be [by?] ballot, and all elections by the Legislature shall be *viva voce*.

2d. The general elections shall be held annually on the first Tuesday in October, except township and municipal elections, which shall be held on the first Tuesday in April annually—until otherwise provided by law.

SUFFRAGE.

SECTION 1. Every white male person of twenty-one years and upwards belonging to either of the following classes—who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he offers to vote at least ten days preceding such election, shall be deemed a qualified elector at such elections:

1st. Citizens of the United States; 2d. Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization, and shall have resided in the United States one year next preceding any election.

2d. No person under guardianship, *non compos mentis* or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election, unless restored to civil rights.

3d. No soldier, seaman or marine in the army or navy of the United

States or of their allies, shall be deemed to have acquired a residence in this State in consequence of being stationed within the same, nor shall any such soldier, seaman or marine have the right to vote.

4th. No person shall be deemed to have lost his residence in this State by reason of his absence either on business of this State or of the United States.

5th. Every person shall be disqualified from holding office during the term for which he may have been elected, who shall have given or offered a bribe to procure his election.

6th. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or who shall go out of this State to fight a duel, shall be ineligible to any office of trust or profit in this State.

7th. Electors, during their attendance at elections, and in going to and returning therefrom, shall be privileged from arrest in all cases except treason, felony, or breach of the peace.

AMENDMENTS AND MISCELLANEOUS.

Mr. HOUSTON, from the committee on Amendments and Miscellaneous, submitted the following report, in print:

AMENDMENTS.

SECTION 1. Propositions for the amendment of this Constitution may be made by either branch of the Legislature; and if two-thirds of all the members elected to each House shall concur therein, such proposed amendments shall be entered on the journal, with the ayes and noes; and the Secretary of State shall cause the same to be published in at least one newspaper in each county in the State where a newspaper is published, for three months preceding the next election for Senators and Representatives, at which time the same shall be submitted to the electors, for their approval or rejection, and if a majority of the electors voting on said amendments, at said election, shall adopt such amendments, the same shall become a part of the Constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to [*178] enable *the electors to vote on each amendment separately, but not more than three propositions to amend shall be submitted at the same election.

2d. Whenever two-thirds of the members elected to each branch of the Legislature shall think it necessary to call a Convention to revise, amend or change this Constitution, they shall recommend to the electors to vote at the next election of members to the Legislature, for or against a Convention; and if a majority of all the electors voting at said election shall have voted for a Convention, the Legislature shall, at the next session, provide the law for calling the same.

MISCELLANEOUS.

A homestead of one hundred and sixty acres of land, or in lieu thereof a house and lot not exceeding in value two thousand dollars, or in lieu thereof, real, personal or mixed property to an amount not exceeding two thousand dollars, belonging to any one family, shall by law be exempted from forced sale under any process of law; and shall not be alienated without the just consent of husband and wife, in cases where that relation exists; but no property shall be exempt from sale for taxes or for the

payment of obligations contracted for the purchase of said premises, or for the erection of buildings thereon."

BILL OF RIGHTS.

The PRESIDENT. The next thing in order is the resumption of the consideration of the report of the committee on the Preamble and Bill of Rights.

Mr. WRIGLEY made an ineffectual motion to go into committee of the whole on that subject.

On the motion of Mr. Thacher, said report was taken up, and the Secretary read the first section of the bill of rights, as follows: (The report of this article is printed in the proceedings of last Friday, July 15th.)

"SECTION 1. All men are by nature equally free and independent, and have certain inalienable rights, among which are those of enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and of seeking and obtaining happiness and safety, and the right of all men to the control of their persons, exists prior to law and is inalienable."

Mr. HOUSTON submitted the following by way of substitute for the first section:

"All men are created free and independent, and are endowed with certain inalienable rights, among which are life, liberty and the acquisition and possession of property, and the right to our own persons. These rights exist prior to law."

On motion by Mr. SLOUGH, it was laid on the table.

Mr. WRIGLEY moved to strike out all after the word "safety."

Mr. THACHER moved to insert, after the words "all men are created free and equal," these words: "except negroes and mulattoes."

Mr. THACHER. I do this, Mr. President, for the benefit of our friends on the other side of the house.

The yeas and nays being demanded and ordered thereon, the vote stood —yeas 5, noes 44—as follows:

AYES—Barton, Foster, Hipple, McDowell, McCune—5.

NAYS—Messrs. Arthur, Burnett, Blunt, Brown, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Forman, Graham, Greer, Griffith, Hubbard, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, Moore, McClelland, McCullough, Preston, Palmer, Parks, Porter, Ritchie, Ross, Signor, Slough, Stinson, Stiarwalt, Stokes, Simpson, Thacher, Townsend, J. Wright, Wrigley, T. S. Wright, Williams, Mr. President—44.

So the amendment was rejected.

On motion of Mr. HOUSTON, the motion of Mr. Wrigley was laid upon the table by the following vote:

AYES—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, [*179] Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, *Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Palmer, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, T. S. Wright, Williams—33.

NAYS—Messrs. Barton, Foster, Forman, Hipple, Hubbard, Moore, McDowell, McCune, McClelland, Parks, Porter, Slough, Stinson, Stiarwalt, J. Wright, Wrigley—16.

Mr. McDOWELL. I desire to offer a substitute for the whole section. It is from the Ohio Constitution, and if the Convention please I will read it:

"SECTION 1. All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety."

That section, sir, was prepared with great care, by a body of very able men.

Mr. THACHER. It is exactly the same section proposed by the gentleman from Riley, upon which the Convention refused to strike out and insert. Is it not the same matter?

Mr. McDOWELL. The impression is, that it is not.

The PRESIDENT. The Chair noticed one or two verbal discrepancies, not affecting the sense, and will be compelled to rule it out of order.

Mr. THACHER. Mr. President, I rise to make a motion to obviate one of the troubles which our friends on the other side are constantly getting into. It is this: I would have inserted in the 32d line, after the words, "and the right of all men to the control of their persons," these words: "except persons of color."

Mr. McDOWELL. I think the language of this section is an enunciation of the higher law principle, that "the control of a man's person is above and prior to all law and inalienable." It is a provision I do not want to see go into any Constitution which we shall adopt; for if this doctrine is correct, you cannot make a man amenable to any criminal law. I admit the kindness and magnanimity of the gentleman from Douglas (Mr. Thacher), but by what right he constitutes himself guardian of this side of the House I am not able to understand. I trust that we are still able to appreciate our position—to attend to the business we are about, and discharge the duties devolved upon us by our constituents. We are still able to make such amendments and such substitutes as we think best. I voted a few moments ago for a proposition by that gentleman, not because it met the approval of my judgment as a proposition in the abstract, but because of the taunting manner in which he tendered it. Now, I propose that this sort of thing shall not go on, and will tell the gentleman that if he will simply attend to the wishes of his constituents, he will be a little better filling his position here, than by attempting to act as guardian for this side of the House.

Mr. THACHER. Mr. President, the principle I have enunciated here is what gentlemen on the other side have voted for several times. And several of those gentlemen have thrust it into our faces how they were determined to put us upon the record, and now I am determined to bring them upon the record. My point is the inhumanity of the proposition. I wish to bring it before the body in all its naked deformity.

Mr. GREER. I am opposed to crimination and recrimination. I cannot sympathize with the disposition manifested by the majority as well as the minority to raise this political discussion. I apprehend that we have not come here for the purpose of criminating and recriminating each other. We are here, sir, to make a Constitution, without attempting to make capital out of the question of "niggerism," which so easily looms up in almost every proposition. I shall vote against the proposition of the gentleman from Douglas, not because I do not think the negroes and mulattoes are not free

[*180] and equal, but because *it does not follow, that because they are free and equal, therefore the white man shall hug them to his bosom, or that white people shall be thereby compelled to admit them to all the social and political privileges of civil government. Sir, while I am unwilling to say, that the negro or mulatto is an inferior being, in any particular, I am equally unwilling to see the society to which I belong claiming the right of indiscriminate association between white people and negroes. I am bound to so represent my constituents in this Convention, as, if possible, to keep the two races distinct, not only in blood, but also in political and social privileges. Sir, I do not think that in making, or in voting for a Constitution that excludes the negro and the mulatto from political and social privileges, we thereby make a chattel of him, and deny him those rights which belong to him as a distinct race of people—a race of people that cannot be regarded as fit associates for the social circle of white men. And, sir, when I hear gentlemen get up here and say they do not want laws or constitutions to protect them and their children against the consequences growing out of a mixture of races, they make what I call a very extravagant mistake. I believe that associations govern conduct; and that whatever looks toward doing away with the prejudice existing between the two races tends also to their amalgamation. Therefore, I am opposed to giving the negro and mulatto either the political privileges which we claim for ourselves, or the social privileges to which every member of the State ought to be entitled.

On motion by Mr. FOSTER, the amendment was laid on the table.

Mr. FOSTER (by unanimous consent). Mr. President, I desire here to state why I voted for the amendment to the seventh section proposed by the gentleman from Douglas. It was not because it met with my approbation, but simply for the reason given by my friend from Leavenworth (Mr. McDowell) because it was thrust at us in a taunting manner.

Mr. RITCHIE. Mr. President, I desire to give my reasons for voting for those amendments by the gentleman from Douglas. (Agreed, agreed). There was a certain declaration made in this country some time ago, to the effect that "all men are born free and equal, and possess certain inalienable rights," and, either by reading that declaration, or by some inherent principle, I have allowed no prejudice to remove from my breast the principles of that declaration. I believe it applies to every human being, wherever that being is found, and therefore I voted for those amendments.

Mr. WRIGLEY offered the following as an additional clause to section 1st:

"Provided that nothing herein contained shall be construed to apply to any person lawfully held to or owing service under the Constitution of the United States or the Constitution and Laws of any other State, or to any person under indictment, or lawfully under arrest or in custody, or lawfully imprisoned."

Mr. WRIGLEY. Mr. President, the gentleman from Douglas (Mr. Thacher) in offering his amendments this morning, attempting to reflect the position which we take on this side of the House, did not truly reflect our views. His last amendment was to this effect: "And the right of all men to the control of their persons, except persons of color, exists prior to law, and is inalienable." The gentleman has asserted that we have taken that position repeatedly during the sessions of this Convention. Sir, I deny it. I should have voted against the gentleman's amendment, if it had not

been laid on the table, because I believe that there are persons of color who have just as good a right to the control of their persons as any white man. I do not say that because a man is a negro or a mulatto, therefore he has [*181] not a right to the control of his *person, or may not have and enjoy the rights of a free man. The object of the amendment I have offered to this section is this: I believe that this section, as it now reads, as remarked by the gentleman from Leavenworth (Mr. McDowell) does embrace the "higher law" doctrine, and is mischievous in its character. I believe it was intended to set at defiance, and that it does in fact set at defiance, the fugitive slave law as a law of the land. I believe it was especially aimed as a hostile blow at this same law of the land. Now, sir, I have great respect for the Constitution of the United States; and however much I might dissent from a principle embraced in any particular law enacted under that Constitution, and however much I might desire its amendment or repeal—still, while it is a law, I believe it is the duty of every citizen to uphold and sustain it. And I believe this section was brought forward here for the express purpose of setting the fugitive slave law of the United States at defiance. Let us see how it would operate. Suppose a fugitive slave to come over into Kansas, owing service as a slave in the State of Missouri. To be true, to carry out this principle, that "the right of all men to the control of their persons exists prior to law," the Legislature would have to pass something like a "liberty bill," that should declare such a person free; that he did not owe service anywhere, and that he could not be recaptured by the person to whom, by the laws of Missouri, he is held to service. Sir, I am opposed to the recognition of any such principle in the Constitution; and I say it is our duty as citizens to obey all laws, until they become so oppressive as to justify rebellion. It is the duty of every patriotic citizen to abide by the law, and I desire to see nothing incorporated into this Constitution which proposes to set law at defiance. So long as it remains among the statutes, I would abide by its provisions, until amended or repealed in legitimate form. But I would not now rise in rebellion against any law of this land; and I believe this provision is designed to accomplish that very object. Again, the effect of this provision is to declare, that no person can forfeit his right to liberty under any circumstances. It matters not how great a criminal a man may be, or how lawfully he may have been arrested, retained in custody, or arraigned under indictment for a grave offense, you propose to have here an organic declaration, that this criminal's right to the control of his person is above all law, prior to all law, and inalienable. Now, sir, I contend, that the right to the control of a man's person is not above law, prior to law and inalienable. He may forfeit that right by the commission of crime—and all must agree, that, under such circumstances, he may be lawfully held in custody, and the control of his person rightfully and legally taken away from him. Adopt this declaration here, and at once you abolish the criminal law, and open all your jails. I am opposed to the declaration, because I believe it is mischievous in its character and tendencies, and because I believe the declaration is not true in itself. But it is not because a negro or mulatto may be held to service, that I object to it; for, as I said before, I believe there are negroes as free as I am to-day, and who can make and enjoy property with all the rights of manhood upon Kansas soil, although they may not enjoy all the rights of the citizen. I do not indorse the proposition that all men are entitled to the control of their persons except negroes and mulattoes. I say that everybody, negroes and mulattoes included, have not this right. And there are also persons who are held to service under law, not because they are negroes and mulattoes, but,

because, under law they owe service; and whenever such shall come over into the free State of Kansas, I for one, under the fugitive slave law, will stand up in favor of its execution. I am opposed to any principle that shall set at defiance any law enacted in pursuance of the Constitution of the United States.

[*182] *Mr. THACHER. The Constitution of the United States was formed by great and good men. The principle of the Declaration of Independence strikes throughout that instrument and vibrates in every line. The Constitution of the United States does not, as it is assumed, fasten slavery upon any one. As to the clause with reference to those who "owe service," these are legal terms, and just as well understood now as in the day when the Constitution was adopted. To owe service is connected with the payment of service. The service that a man owes necessarily follows from a consideration for which he shall perform that service. In other words, it is a declaration that no contract shall be invalidated. Sir, it is proposed by the party in power to engraft into the Constitution of the United States a provision that does not appear there. It is proposed to fasten upon the Constitution a provision which Washington, Jefferson, Madison, and all the great and good men of that day spurned from them. For Madison, himself a slaveholder, said in the debates of that first Constitutional Convention, "I do not wish to see the Constitution recognize the right of property in man." Madison would have blushed with shame for the slavery legislation which is advocated here. It is proposed, sir, to amend the Declaration of Independence, by inserting exceptions, as in the case of crime, &c., and so declaring that the Declaration is not true—that these rights of man are not inalienable—as though these principles were not just as true now as when Jefferson and Madison drew them up and placed them in the Constitution of the United States. I have no objection, sir, to adding the words "except for the commission of crime;" but anything further I shall not accept.

Mr. MCDOWELL. Our first duty here, Mr. President, as I conceive, under the oath of office we have taken, is to support the Constitution of the United States. So that, if we were to disregard that instrument, and were to make an organic law that would contravene its provisions, and send that law to Congress and ask Congress to admit us into the Union under it, Congress would refuse us admission; because it is not in their province to admit a State whose Constitution or organic law is in contravention with that of the United States; but their power simply extends to the admission of new States whose government shall be republican in form, and whose Constitutions shall not conflict with the provisions of the Constitution of the United States. It is immaterial to me, sir, by what lights the gentleman proposes to construe that instrument, so long as that instrument itself has established a tribunal of interpretation for all its provisions, and there is none other recognized in it to which we can go to get a construction. And when that tribunal has given a construction to that instrument, it does seem to me that it devolves upon us, as law-abiding citizens—as men sworn to support the Constitution of the United States—to consent at once to support it as it has been thus authoritatively construed. I think I might appeal to the gentleman as a lawyer to answer me, whether or not the Supreme Court of the United States has not construed the Constitution of the United States to the effect, that it is the right of the owner of a slave escaped from his service, to demand the return of that slave in a free State upon proving his identity? I ask whether the Constitution does not, in so many words, give him that

right? Whether there is not a provision in that instrument that prohibits any State from making a Constitution differing in spirit and letter from that? Then, while some jurists disagree as to the mode in which this right shall be exercised—some claiming that the several States shall legislate upon this right—that the Constitution of the United States has not the [*183] word slave in it, and that if the owner of a runaway slave go *after his fugitive and capture him in a free State, he must do so subject to the laws against kidnapping; but the great majority have found it expedient for Congress to legislate on this subject. And in 1851 the fugitive slave law was passed. That law has been decided to be constitutional, and has been enforced in almost all the States of the Union, and will be enforced till it may be repealed. Now, I think I can see some of the clear poison of higher-lawism in this provision, which the gentleman from Doniphan proposes to strike out.

The PRESIDENT. The gentleman's proposition does not read to strike out.

Mr. MCDOWELL. I may not have been verbally accurate. It is the purpose of the amendment to remove the clause, which we think ought to be removed. I was observing that I thought I saw the still poison of higher-lawism embraced in these words, and for one, I do not propose to encourage it. I do not regard it as sound political philosophy, and I regard it as unconstitutional. In addition, as was well observed by my friend, this clause, if adopted as it now stands, will simply place us in the attitude of the commission of this solecism; recognizing somewhere the right and power to punish crime, yet in the Bill of Rights doing away with every provision of that kind, by asserting that the control of the person is above, beyond, anterior to all law. I hope the Convention will enact no such solecism as that. Whatever their notions may be on these questions in relation to the fugitive slave law, let us be careful, at least, to avoid placing ourselves in an absurd position.

Mr. RITCHIE. Did not the Convention strike out of this first section all after the word "safety"?

The PRESIDENT. That motion did not prevail.

Mr. BLUNT. Mr. President, I propose to offer the following as a substitute for the amendment of the gentleman from Doniphan: "Except in cases where the party is charged with crime, or has been convicted thereof."

The PRESIDENT. The chair conceives this to be out of order as a substitute for the amendment of the gentleman from Doniphan (Mr. Wrigley). The amendment of the gentleman from Doniphan makes an exception to the provision in the latter clause of the section. The amendment of the gentleman from Anderson (Mr. Blunt) also makes an exception, but of a slightly different character, and may be taken as an amendment to the amendment offered by the gentleman from Doniphan.

Dr. BLUNT. Mr. President, the proposition I have offered as an amendment, I think is not only pertinent, but removes one of the objections referred to by the gentleman from Doniphan (Mr. Wrigley) and the gentleman from Leavenworth (Mr. McDowell), "that the section as reported would allow persons charged with crime, or convicted thereof to have control of their persons and thus defeat the execution of law." Therefore, to remove all doubtful and dangerous construction that might be put upon the section, I have proposed this amendment. This, however, does not appear to meet the real objection of gentlemen upon the other side of the house, who think they have discovered in the Bill of Rights as re-

ported by the Committee, an attempt to evade the execution of the fugitive slave law, and true to the instincts of the party they represent, whose democracy consists in bowing the suppliant knee to the demands of the slave power, they come promptly to the rescue.

I do not know what object the committee had in view when framing this section of the Bill of Rights, but it is very certain that the fugitive slave law had not occurred to my mind, in connection with the matter under consideration, until attention was called to it by the ever faithful guardians of the "peculiar institution," on the other side of the chamber. As they have introduced the subject, however, I desire now to say that if this section, as reported, does not sufficiently protect the rights of the [*184] citizens *of Kansas against the aggressions of this infamous law, I would have it so amended, or an additional section incorporated, that there should be no doubt existing in the mind of any one as to the power of the Legislative or Judicial departments in relation to this matter; for while our democratic friends, in the exercise of their peculiar functions of "Union savers," are eager to exhibit their willingness to obey the commands of their *Southern masters,* I am equally anxious that the broad prairies of Kansas, that have been so nobly won to freedom, after a long and bloody struggle, shall never be prostituted as the hunting ground for human prey.

Now, in the incipient stage of our State organization, I conceive to be the proper time to declare whether we will or will not prostitute ourselves by aiding in the execution of the most inhuman and infamous statute that ever disgraced a Christian and civilized country.

I do not propose to speak the sentiments of the Republican party of the country, or of Kansas, upon this subject, but merely to declare my own individual views; and such as they are, I am willing that they should be published to the world. I hold, with the fathers of the early Republic, that the institution of human slavery is a creature of municipal law, having its origin in the law of physical force, or the ability of one race of beings to hold another in subjection without any principle of moral right; that it is not only in violation of the principles of Christian humanity and the laws of God, but also at variance with the spirit of the age in which we live, and in conflict with the best and dearest interests, morally, politically, and socially, of every civilized community. This accursed institution, in the footsteps of which follows a moral blight and mildew, was but the relic of a barbarous age, entailed upon the original States at the time they emerged from the darkness of despotism to be clothed with the glorious light of American liberty, and became a perplexing question with the founders of the American confederacy, as to the true policy to be pursued relative to an institution which they conceived to be at war with the spirit and genius of the principles of liberty, for which they had so nobly contended—an institution which they abhorred, and deprecated, and which they fondly hoped would at some day, not then far distant, become extinct. I think the history of the organization of the confederacy, and the debates upon the formation of the Federal Constitution, go clearly to show that it was never intended by the pure and incorruptible statesmen of that day that the institution of slavery should ever, in any way, be nationalized. They only permitted it to remain where it then already existed, subject to such local regulations as might be prescribed—and that outside of its municipal boundaries, all responsibilities for its existence and maintenance should cease, and that the Federal government should be essentially a government for freedom. And upon this basis I now pro-

pose to stand, believing as I do, that the fugitive slave law is not only inhuman and infamous, but, to my comprehension, clearly, and beyond doubt, a violation of the Constitution of the United States. For I conceive, and I think correctly, that the clause in the Federal Constitution that refers to "fugitives from service or labor," and which is taken as authority for the fugitive act, does not confer upon Congress any power to legislate upon that subject, and was never intended as anything more than a compact—binding in the good faith of the parties—whereby the Free States agreed that they would interpose no lawful barrier to prevent the slaveholder from pursuing and capturing his chattel, if he saw proper to do so, at his own expense and risk, but it never contemplated that the people of the Free States should be compelled by Federal authority to convert themselves into bloodhounds to be used in running down human chattels, and to be made subservient to the will of the slave-
[*185] *hunter, in sustaining an institution in which they have no interest or lot.

But we are told by these "Union-savers," who stand as sentinels upon the outposts of slavery, with holy horror depicted upon their faces, "that the fugitive act is the law of the land, and that until it is repealed, as good citizens we are bound to obey it." I have not the time, neither do I wish now, to go into a minute examination of this subject, and will only remark briefly, in reply to this kind of argument, that those who made the law and those who decide upon its constitutionality, are but human, and liable to err; and was error their only fault it might be palliated and excused, but the fact is patent and too well known to require proof here, that the Legislative, Executive and Judicial departments of this government are under the control and patronage of the slave power, and dare not do otherwise than obey its inexorable demands. And while as a general principle, I am opposed to the disobedience of law, and am ready to submit to any enactment that affects only my material or corporeal interests, however unjust such law may be, yet I will never submit to any statute that compels me, in violation of conscience and a conception of Christian duty, to commit a crime against the laws of God and humanity. And, Mr. President, I will here be frank to declare that while I will never interfere with the institution of slavery, when it exists in the States by municipal law, neither will I in any manner be responsible for any of its sins. While I shall use no means to induce slaves to flee from their masters, neither will I suffer myself to be used as an instrument for their capture and return. I expect to recognize every man upon the free soil of Kansas as a freeman, without reference to the color of his skin, unless I know that he is guilty of a crime that should deprive him of his liberty, and so help me God, while the fugitive slave act remains upon the statute book, I shall ever consider it a Christian duty to disregard its cruel mandates. No wicked and infamous law shall ever deter me from feeding the hungry and sheltering the weary, and exercising towards a fellow-being the kind offices of a common humanity. "As ye would that others should do unto you, do ye even so unto them," was the precept of Him whose example is worthy of imitation; and I desire here to say that the officer who shall ever command me, as one of the *posse comitatus*, to aid in the execution of the fugitive slave law, offers to me a direct insult, and he may expect me to act accordingly. I will ever hurl defiance at its commands, despite all the penalties of fine and imprisonment that can be enforced by any corrupt and tyrannical power.

To return then, Mr. President, to the subject directly under considera-

tion, I take the position that it is the duty of every State to protect its citizens against unwarrantable Federal aggression, and it is especially the right and duty of the free States, to protect its citizens against the aggressions of the fugitive slave law. I think it eminently befitting the Convention, in organizing a State government for Kansas, to present itself before the world as occupying a bold and proud position upon this question.

The position of protecting the rights of her citizens in this matter, is one peculiarly appropriate for the State of Kansas to assume; when we consider the fact, that in the last few years she has been the object of a bitter and violent persecution, at the hands of a corrupt democracy, unparalleled in the history of any country. And having, after years of struggling against the combined cohorts of slavery, backed by the strong arm of federal law, emerged from darkness and oppression into the glorious morning of liberty, she should ever value the rights she has achieved, and defend them from all aggressions, from whatever source they may come.

The noble State of Wisconsin, peopled by the virtue and intelligence of New England, has been the first to assume the bold position of antagonism [*186] to the fugitive slave law. Her su*preme judiciary was the first to interpose to protect freemen from its cruel exactions, and for this act of independent sovereignty she has received the commendation and applause of the free North, and the respect even of the South, and to-day her citizens have reason to rejoice for the proud position she has taken.

In conclusion, Mr. President, I have only to add, that I desire to see this question—of the right of a sovereign State to protect her citizens from federal aggression—fixed definitely, and ratified by the people of Kansas in their organic laws, that our legislative and judicial departments shall hereafter have the landmarks boldly and clearly defined.

The eyes of the whole country are turned towards us watching our every act, and nothing will be more gratifying to the friends of freedom throughout the Union, or command more respect from the votaries of slavery, than to see Kansas at this time place herself proudly and firmly upon the ancient doctrine of State rights, or State sovereignty. That doctrine, so nobly contended for by Jefferson and his illustrious compeers—was once the pride of democracy, but which, alas for the cause of human rights, was long since ignored by the latter-day prototypes of that once noble race, to give place to the prevailing democratic idea of the present day—"that the States, and the union of the States, have no higher mission to perform than the extension and perpetuation of human slavery, and that all else must be made subservient to its interests."

I deny, Mr. President, that the democracy of to-day has any affinity with the democracy of Jefferson, and the noble band of patriots who advocated with such earnest zeal the doctrine of the rights and sovereignty of the States. But whatever may be the position now occupied by our adversaries, or whatever wrongs may be committed in the name of democracy, let the Republicans of Kansas to-day, in the organization of an independent and sovereign State, incorporate the principles inculcated by the founders of the Republic, and in so doing we will not only challenge the admiration of the good and true, but will have faithfully discharged our duty to ourselves, to our posterity, to our country, and to our God.

Mr. GRIFFITH. It seems to me, sir, that this discussion and both amendments are unnecessary, and that they result from a misconception of the clause in question. I see nothing of any higher-law doctrine in this section. If it is there, I confess that I have not penetration enough to dis-

cover it. The proposition is, "that the right of all men to the control of their persons exists prior to law, and is inalienable." It does not propose that the authority of the State shall not hold the persons of men if they have committed crime, but simply that this right exists prior to law, and is inalienable by the person holding it—that is, he cannot sell it or dispossess himself of it. But, sir, the law of the land regulates this matter entirely.

Mr. LILLIE. Mr. President, like my friend from Bourbon, Mr. Griffith, I think this debate has taken rather an extraordinary range. It occurs to me, sir, that this is a question of natural rights, and not at all connected with artificial rights and civil disability. It is a declaration that all men are created free and equal and possessed of certain inalienable rights, such as we all concede, as set forth in the Declaration of our national independence—from which I suppose no gentleman at this hour will deliberately dissent. These are natural rights; but by this section we say that they existed prior to the formation of any government; that they are coextensive with the existence of man, and so were before the formation of civil government. When, by the multiplication of men, it became necessary to have civil government, individuals gave up part of [*187] their natural rights to secure for themselves the blessings of *civil liberty, and among them were restraints upon the liberty and life of the person. Hence it became necessary that laws should be enacted to protect the weak. These natural rights were given up for the protection of the weak. Thus, every man in the State has acknowledged that he has given away part of his natural rights. And this is a legal disability, having its origin in civil government. But I consider this question as contemplating only natural rights, and not acquired rights, and therefore, I think the amendment entirely out of order and having no applicability to the case. And as no gentleman had expressed my views exactly, I thought it due to my position to say this much.

Mr. BURNETT. Mr. President, it seems to me that gentlemen are laboring under a misapprehension. I consider that the last clause of this section but annunciates a great natural right, and if there is any necessity for making qualifications, as suggested by the gentleman from Anderson, Mr. Blunt, it might be best to place them also in connection with the right to life and liberty. But in the annunciation of this natural right to the control of the person, and that it exists prior to law—what does the word "prior" mean? It means "antecedent to." Then we have the declaration that a man's right to the control of his person is antecedent to the law—is a natural right. And this right, in the list of the natural rights of man, forms a part of this report—this is a bill of rights. I know, sir, that there is, at the present time, a great distrust in the minds of certain politicians in regard to this matter of natural rights. There is a great disposition to look upon the Declaration of Independence as a string of "glittering generalities." But I wish to see this clause retained just as it is. Anything short of that, would be falling short of the proud position taken by our fathers in the declaration of their rights.

Mr. BLUNT. Mr. President, I merely wish to state that I entertain the same views as represented here by my friends from Bourbon and Madison, Mr. Griffith and Mr. Lillie, and that I offered my amendment merely to conciliate the other side of the house, and to remove a single objection. But upon reflection I will withdraw it.

The PRESIDENT. The question is on the adoption of the amendment of the gentleman from Doniphan.

Mr. GREER. Mr. President, I hope gentlemen will not act precipitately

on this question. It has been assumed here that this is nothing more than the annunciation of the great principle of liberty which belongs to every member of society, which is inalienable, and which cannot be affected by the power to establish a government. While I am not entirely prepared to concede that this section would carry us as far as contended for by the two gentlemen from Leavenworth, yet I see that there is something in this clause which is objectionable upon principle. If every man in community has rights that are inalienable—rights, sir, that cannot be controlled by constitutional provisions—for every inalienable right stands above the Constitution—if it were to be declared here that the control of the person is inalienable, and that it exists before law. I would like to know of gentlemen who are in favor of retaining this clause, how they would get authority to arrest a man charged with crime, and carry him into a court of justice for trial, without violating this clause in the Constitution? While it would not give him the proper control of himself in the perpetration of crime, it would give him the right to resist the powers of law by which he might be brought into court to be punished. And while this is the inevitable conclusion that must be drawn, so far as the criminal law is concerned, there is another effect that would flow from such a declaration, [*188] *and that is, you could not control the person of the citizen for the purpose of getting testimony into a court of justice, because it would be a violation of this clause in the Constitution. And while this is the fact, I do not conceive that the amendment of the gentleman from Doniphan obviates the difficulty. I think that portion of the section ought to be stricken out by the Convention, because it is objectionable for such high and important reasons. And I undertake to say this would be the effect of it. Where there is an inalienable right existing before law, it is uncontrollable by law or Constitution. And if there is any right that cannot be controlled by law or Constitution, the individual can never be subject to anything that violates that right, without a violation of this clause in the Constitution. I think, sir, that it is all that is necessary for the full and perfect declaration of the rights of the citizen as declared in other parts of the report, that it should be announced here "that all men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending their lives and liberties"—leaving the right to the control of the person for the purpose of carrying on the government. I do not think this has anything to do with the fugitive slave law. If this Constitution should contain a clause contravening the Constitution of the United States, it would be a mere nullity. But I do not conceive that this clause is liable to such an objection. I think it might be regarded as consistent with the Constitution of the United States, though, as I have suggested, it might be set up against the judicial administration of the laws, upon the plea that a man cannot be deprived of the control of his person. If there was any way of reconsidering the vote we have taken on striking out this clause, I would be in favor of taking that course, for the sake of amendment.

Mr. HUTCHINSON. Mr. President, I really do not know what is involved in this debate. I think the gentlemen from Bourbon and Anderson have taken the only correct view, and until they spoke I was surprised at the wide range of remark which had been taken. I do not think, sir, that it becomes us to take a contracted view of this question. This is the first section of our bill of rights. What is a bill of rights? It is a mere declaration of the natural rights of man. And in summing up these rights, it is not to be supposed that we will come down to any narrow, contracted conception of them—that we will use the pocket compass of legislation—but it

is to be supposed that we will look on the bright side—will take a fair and independent view of the rights of man, aside from the restrictions of law and civil government of any character. And if we are to allow any portion of this section to stand—if we declare all men equally free and independent, certainly we may more reasonably declare that all men have the right to the control of their own persons. If it should be amended anywhere, I think it should be in the first line, so as to read "all men, except negroes and criminals—all persons except those owing service and labor, and those retained for the commission of crime, and so on, are equally free and independent, and have those inalienable rights of enjoying and defending their liberties, and of acquiring, preserving and protecting property." It is but a declaration of those natural rights of man that have been acknowledged from the foundation of this government. The gentleman from Shawnee asks, "How, with this clause, will you arrest a criminal or execute the criminal law?" I ask him again, How were the criminal laws executed in the days of Jefferson and Madison?

On motion of Mr. HOUSTON, the amendment was laid on the table by the following vote, Mr. Slough demanding the yeas and nays:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, [*189] Dutton, Graham, *Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, T. S. Wright, Williams—30.

NAYS—Messrs. Barton, Foster, Forman, Greer, Hipple, Hubbard, Moore, McDowell, McCune, Palmer, Parks, Slough, Stinson, Stiarwalt, J. Wright, Wrigley—16.

So Mr. Wrigley's amendment was laid on the table.

Mr. PRESIDENT WINCHELL (Mr. Hutchinson in the chair) offered the following as a substitute for the first section: "All men are by nature free and equal and possessed of certain rights inalienable by law, except for the commission of crime, among which rights are life, liberty, the pursuit of happiness and the acquirement, possession and protection of property."

Mr. WINCHELL. Mr. President, I offer this substitute, because I think there is some foundation for the arguments which have been adduced suggesting amendments. It appears to me that if we declare in the fundamental law, that men have certain rights that are inalienable, we must mean that those rights are inalienable by law. We are not here for the purpose of considering rights of persons as contemplated by law, and if we proceed to enlarge or restrict those rights, it seems to me that we shall lay ourselves open to the charge of stultification. I therefore offer this amendment, which is intended to remove the objections and difficulties suggested.

Mr. KINGMAN. Mr. President, I do not propose to argue this question. I would be willing to vote for the section as it stands, but I prefer the language of the substitute just offered. But I hold in my hand a section which I prefer to both of them. I do not propose at this time to offer it. But I hold that this use of the word "inalienable," is misunderstood and misinterpreted in this House. A man's right to his life is inalienable in law under all circumstances. He has no right to sell or give it away—no right to dispose of it at all. But the word "inalienable" has a fixed meaning in law. And when in the common use of the word we say, that a man cannot alienate his property, none would suppose we mean to

say, he cannot forfeit his property. We propose, at the proper time, to propose in this Constitution, that there shall be a homestead set apart to each settler in the State, which shall be inalienable, but we do not propose to ordain that it shall not be forfeited for debts due to the State, and so on. I do not like to see this doctrine impinged. I do not like to depart from old, established usage. Therefore I hope the section which I hold in my hand will be adopted. By the leave of the Convention I will read it:

"All men are possessed of equal and inalienable natural rights, among which are those of life, liberty and the pursuit of happiness."

These terms, Mr. President, are fixed in the minds of the American people—they have become traditional. And I offer to strike out and insert this, that the American feeling might appear in this section. We all cling to old truths, and I love the very forms of expression in which old truths have been presented. I dislike to change any old truth from the forms of language to which I have been accustomed. I dislike to see them taken from the habiliments in which I have so often seen them clothed and put into new and doubtful phraseology; and our national Declaration of Independence is of this class of truth. That Declaration of Rights forms a part of our political creed, from which no man can extricate himself; and I do not wish to change the clothing of these ideas. It is this feeling that makes a man who has long read one book—as the Bible or Blackstone—value it a hundred fold above its intrinsic value. This makes a man like to read the sentiments he cherishes in their original style of expression—makes him like to dwell on the very words that cover the principles he holds closest to his heart. And we should express [*190] these sentiments in few *words—sufficient to cover their views and carry their original force, and whatever goes beyond that is injurious to the sense. I say again, sir, I love these old forms. They are, it seems to me, as the political Bible of every citizen of the United States. If you change their language, you mar their beauties—carry the mind away from the sense, and send it off into reflections on the phraseology and meaning of these new terms. I think the amendment I have read, in these old terms, is broad enough. It will show no man's prejudices, and it is broad enough for all to stand upon.

The President (Mr. Hutchinson in the Chair) decided the amendment out of order.

Mr. SLOUGH. It is only an amendment in the second degree. It seems to me that the Chair, upon second thought, must come to this conclusion.

The PRESIDENT. A substitute is not susceptible of amendment.

Mr. SLOUGH. I appeal from that decision.

Mr. PREST. WINCHELL. I hope the gentleman will not consume time by an appeal. It strikes me that the Chair is laboring under a mistake. I suppose this substitute of the gentleman from Brown (Mr. Kingman) to occupy the same position as an amendment to an amendment, and that if the substitute is complete in itself it is in order.

The PRESIDENT. The Chair is still of the opinion that a substitute is not amendable.

Mr. WINCHELL. It is a substitute for a substitute.

The PRESIDENT (Mr. Hutchinson), explained and defended the position of the Chair on the point of order, but waived the decision and entertained the substitute of Mr. Kingman.

Mr. WINCHELL. Mr. President, it is a very delicate matter for a man

who is no lawyer to undertake a legal argument upon a question of law coming from lawyers who have the confidence of members. But certainly it seems to me that on one point here there is a mistake—I refer to the meaning of the word "inalienable."

I find from this authority (Webster's Dictionary) that the meaning of the word "alienate" is "to transfer;" and that the definition of the word "inalienable" is "that which cannot be transferred to another." So, there is nothing here to satisfy my mind that the effect of this section will be to restrict the action of law upon the right to the control of persons and property. If I am not mistaken, sir, we often find phrases to the effect that property shall not be transferred without the consent of the owner, legally obtained. Yet we see all descriptions of property sold for debt—for rents—and land is sold for taxes. At least we might admit that there is room for a diversity of opinion. The gentleman from Brown (Mr. Kingman) has offered a more general amendment than mine. It gives room for men of diverse views to stand upon and therefore I am opposed to it. It does not make the matter clear enough for the House to discern whether the principle they desire is enunciated or not. Sir, I am desirous of seeing no amendment prevail which shall allow the gentleman from Doniphan, and his friends, to believe that the right of any man to claim a fugitive is granted by that provision. I desire that thing to be settled here. I desire that the courts of the State of Kansas shall have the full benefits of a constitutional guarantee in making up their decisions upon the question. And it is for this reason that I have offered my substitute—not that I consider myself able to offer anything preferable to the suggestions of the minds of other men, but because I desire to have this principle decided, upon which we differ so widely. I admit that the substitute of the gentleman from Brown is general and unexceptionable in its terms. At the same time, I believe, that since his model was adopted, the times have changed, the men have changed, and this question has assumed a new phase, so that it becomes our duty, in order to meet this question fairly, to present our declaration in words and phrases of unmistakable significance.

[*191] *Mr. STINSON. Mr. President, as I understand the gentleman from Osage, the proposition he places before us is this: that he desires some constitutional provision which shall compel the courts of the State of Kansas to refuse to execute, or to put hindrances in the way of the execution of the fugitive slave law of the United States.

Mr. WINCHELL. The gentleman is right.

Mr. STINSON. I thank the gentleman for the admission; and through him I thank the party he represents for the spirit of frankness in which the declaration is now put forth. It has been often charged upon this floor, sir, that Democratic members, by several motions, have been attempting here to throw obstacles in the way of the admission of Kansas into the Union, and now I will ask these gentlemen how they can suppose that any State Constitution can be admitted by Congress with such a provision in it as is here set forth? It will never be done, sir. And I do not hesitate to say, that there are not two thousand voters in the State of Kansas who will sanction such a Constitution. There is a very worthy and distinguished gentleman in the State of Massachusetts, a leader in the anti-slavery party, William Lloyd Garrison by name, who, in making a speech a few months since declared that the proposition that the Constitution of the United States did not authorize the fugitive slave law was a sheer absurdity; that the Constitution of the United States was a pro-slavery instrument, and the

fugitive slave law was enacted in strict accordance therewith. He declared also, that if the country desired to abrogate that law they must also abrogate the Constitution of the United States. But, sir, on the other hand, I might quote the authority of Daniel Webster, and all the great minds of the country, who have considered and published their opinions upon this question, to show that the fugitive slave law was enacted in strict accordance with the Constitution of the United States. And, therefore, I desire to warn gentlemen, that we are not here for the purpose of laying down Republican and Abolition platforms, but for the purpose of framing a Constitution for the State of Kansas, in accordance with the Constitution and laws of the United States, and that when these gentlemen would go further, and seek to affirm their fanatical doctrines in this instrument, they make it impossible for our labors to be of any avail here.

Mr. THACHER. Mr. President, I am gratified that we have an Abolitionist brought to stand on the same platform with the Democratic party—both holding pro-slavery doctrines—whilst the Republican party still adhere to the original freedom-loving doctrines.

Mr. WINCHELL. Mr. President, I never stood upon the platform which I understand to be occupied by the distinguished gentleman of Massachusetts to whom the gentleman has alluded. And I desire, for it seems to be necessary here, to state, that any person who attempts to define the position of the Republican party before this country as being identical with that of the Abolitionists of Massachusetts, must place himself in the position of a person willfully deceiving the public mind, or of one totally wanting in information of the matter—and in either case it is certain that the gentleman ought to be cautious in regard to his statements. One word in regard to the charge of hostility to the fugitive slave law. I am one of those who believe that the fugitive slave law is utterly and entirely without warrant in the Constitution of the United States: that it is subversive of the rights of citizens and subversive of the State rights, which are guaranteed in the Constitution of the United States. I believe, also, that it is imperatively demanded of every State, in forming their organic law, that they should take care that their rights shall be respected, in order that their constitutions may be in conformity with the Constitution of the United States; and that for them to neglect this would be a violation of the Con-
[*192] stitution of the United States—*and that so far from such provisions in a State constitution being objectionable, I believe the omission of them, rather, should be taken as an exception to its reception by the general government.

Mr. WRIGLEY demanded the yeas and nays upon the amendment of Mr. Kingman to the substitute, and being ordered and taken the vote stood—yeas 42, nays 6—as follows:

YEAS—Messrs. Arthur, Blunt, Barton, Burris, N. C. Blood, Crocker, Dutton, Foster, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Hanway, Hoffman, Ingalls, Kingman, Lillie, J. Lamb, Middleton, E. Moore, McDowell, McCune, McClelland, McCullough, Preston, Palmer, Parks, Porter, Ross, Signor, Slough, Stinson, Stiarwalt, Simpson, Thacher, Townsend, J. Wright, Wrigley, T. S. Wright, Williams—42.

NAYS—Messrs. Burnett, Hutchinson, Houston, Ritchie, Stokes, Mr. President—6.

So the substitute for Mr. Winchell's substitute was adopted; and the section as amended was adopted.

Section 2d was then read. It is as follows:

"SEC. 2. All political power is inherent in the PEOPLE, and all free governments are founded on their authority, and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the General Assembly which may not be altered, revoked or repealed by a two-thirds vote of the same body, and this power shall be exercised by no other tribunal or agency."

MR. BURRIS. Mr. President, I move to amend section 2d by striking out, in the 37th line, the words "a two-thirds vote of." I would state that my object in making this amendment is to provide that there shall be no special privilege granted to any individual or body politic and corporate, but what may be repealed as other laws by a majority vote of the two Houses.

MR. KINGMAN. I second the motion.

The amendment was agreed to and so the section was passed.

Section 3 was then read, as follows:

"SEC. 3. The people have the right to assemble, in a peaceable manner, to consult for their common good, to instruct their Representatives and to petition the General Assembly for the redress of grievances."

MR. HOFFMAN. Mr. President, I move to amend by striking out the word "Legislature" in the 40th line and inserting instead the words "Government, or any department thereof."

The amendment was adopted, and the section as amended was passed.

Section 4 was read and adopted, viz:

"SEC. 4. The people have the right to bear arms in their defence and security, but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power."

Section 5 was read, as follows:

"SEC. 5. The right of trial by Jury shall be inviolate, and extend to persons of every condition; but a jury trial may be waived by the parties in all cases, in the manner prescribed by law."

MR. MCDOWELL moved to strike out the words "and extend to persons of every condition."

MR. THACHER. Mr. President, I hope the Convention will not strike out these words. It is eminently right and proper, in the Bill of Rights, to guarantee the right of trial by jury to every person, under all circumstances and in every condition of life—and this is such a guarantee as, I think, every man in Kansas will respect.

MR. STINSON demanded the yeas and nays on the amendment, and they were ordered, and being taken, resulted—yeas 14, nays 33—as follows:

YEAS—Messrs. Barton, Foster, Hubbard, Hipple, Moore, McDowell, McCune, McClelland, Parks, Slough, Stinson, Stiarwalt, J. Wright, Wrigley—14.

NAYS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Porter, Ritchie, Ross, Stokes, Signor, Simpson, Thacher, Townsend, Wright, T. S. Williams, Mr. President—33.

[*193] *Section 6 was read. It is as follows:

"SEC. 6. There shall be no slavery in this State, and no involuntary servitude, unless for the punishment of crime, whereof the parties shall have been duly convicted."

Mr. THACHER demanded the yeas and nays, and the same being ordered and taken, the vote stood—yeas 46, nays 1, as follows:

AYES—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, Barton, N. C. Blood, Crocker, Dutton, Foster, Graham, Greer, Griffith, Hipple, Hubbard, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kinsman, Lillie, Lamb, Middleton, Moore, McDowell, McCune, McClelland, McCullough, Preston, Palmer, Parks, Porter, Ritchie, Ross, Signor, Slough, Stinson, Stiarwalt, Stokes, Simpson, Thacher, Townsend, T. S. Wright, Wrigley, J. Wright, Williams, Mr. President—48.

NAYS—Mr. Forman—1.

So the section was adopted.

Section 7 was read, as follows:

"SEC. 7. The right of every man to worship God according to the dictates of his own conscience shall never be infringed, nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any form of worship against his consent, nor shall any control of, or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the state, nor shall any religious test or amount of property ever be required as a qualification of any voter at any election in this State, nor shall any person be incompetent to be a witness on account of religious belief, but nothing herein contained shall be so construed as to dispense with oaths or affirmations. The liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or to justify practices inconsistent with the peace or safety of the State; nor shall any money be drawn from the Treasury for the benefit of any sect, society or institution."

Mr. LAMB offered the following:

In the fiftieth and fifty-first line, where the word "man" occurs, let it be altered to read "person;" and where the word "his" occurs, let it be altered to read "their."

Mr. LAMB. Mr. President, here is a privilege granted to men to worship God according to the dictates of their consciences, while women are left out of the question.

The amendment was agreed to.

Mr. THACHER moved to strike out the words, "shall any religious test or amount of property ever be required as a qualification."

The amendment was agreed to; and so the section was adopted.

Section 8 was read as follows:

"SEC. 8. The privilege of the writ of *habeas corpus* shall not be suspended, unless in case of invasion or rebellion the public safety requires it; and said writ shall be granted, as of right, in all cases where the Legislature shall not specially confer discretion upon the court; but the Legislature may prescribe preliminary proceedings to the obtaining of said writ."

Mr. WRIGLEY offered as an amendment: "Strike out all after the word 'it,' in the sixty-fifth line, at the semicolon; so as to leave it as in the Ohio Constitution."

Mr. STINSON proposed to strike out "privilege," and insert "right." These amendments were agreed to; and the section as amended was adopted.

Section 9 was read, as follows:

"SEC. 9. All persons shall be bailable by sufficient sureties, except for capital offences where proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted."

Mr. THACHER. I would suggest, that the word "nor" should be inserted instead of "or," in the last line, between the words "cruel" and "unusual."

[*194] *The amendment was agreed to, and so the section passed.

Section 10 was read and passed without amendment. It is as follows:

"SEC. 10. In any trial, in any Court, the accused shall be allowed to appear and defend in person, or by counsel; to demand the nature and cause of the accusation against him; to meet the witness face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed; nor shall any person in a criminal cause be a witness against himself, or be twice put in jeopardy for the same offence."

Section 11 was read, as follows:

"SEC. 11. The liberty of the press shall forever be inviolate, and all persons may freely speak, write or publish their sentiments on all subjects, being responsible for the abuse of such right."

Mr. INGALLS offered the following amendment:

At the close of the section add the following words: "And in all actions for libel the truth may be given in evidence to the jury, and if it shall appear to the jury that the alleged libelous matter is true and was published for justifiable ends, the accused party shall be discharged or acquitted."

The amendment was adopted, and the section as amended passed.

Section 12 being read, on motion of Mr. Hutchinson it was rejected, as matter superseded in another chapter of these proceedings.

Mr. STINSON offered the following, to come in for the 12th section:

"Nothing herein contained shall be construed to interfere with or hinder the execution of the fugitive slave law, or any of the laws of the United States in the State of Kansas."

Mr. BURNETT moved to lay the amendment on the table, and the yeas and nays being demanded and taken thereon, resulted—yeas 32, nays 16—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, J. Blood, Burris, Crocker, Dutton, Graham, Griffith, Hanway, Hutchinson, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Palmer, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, T. S. Wright, Williams, Mr. President—32.

NAYS—Messrs. Barton, Foster, Forman, Greer, Hipple, Hubbard, Moore, McDowell, McCune, McClelland, Parks, Slough, Stinson, Stiarwalt, J. Wright, Wrigley—16.

So the amendment was laid on the table.

Mr. J. BLOOD offered the following matter, to take the place of the 12th section:

"Every person is entitled to a certain remedy in the laws for all in-

juries or wrongs which he may receive in his person, property, or character; he ought to obtain justice freely, and without being obliged to purchase it; completely and without denial, promptly and without delay, conformably to the laws."

On the motion of Mr. STINSON, it was laid on the table.

Section 13 being now made section 12, was read, as follows:

"SEC. 12. No person shall be transported out of the State for any offence committed within the same, and no conviction in this State shall work a corruption of blood or forfeiture of estate; nor shall any person be liable to be conveyed out of this State for trial in any case where the offence was committed within the same, and no indenture of any persons, made and executed out of the bounds of the State, shall be valid within the State if inconsistent with the laws thereof."

Mr. BURRIS moved to strike out all after the word "same" in the eighty-fourth line; which was carried, and as thus amended, the section passed.

Sections 13 and 14 were read and passed, viz:

"SEC. 13. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No [*195] *person shall be convicted of treason unless on the evidence of two witnesses to the overt act, or confession in open court.

"SEC. 14. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war except in a manner prescribed by law."

Section 15 was read and passed, viz:

"SEC. 15. The right of the people to be secure in their persons, houses, papers, estates, &c., against unreasonable searches and seizures, shall be inviolate; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized."

Section 16 was read, as follows:

"SEC. 16. No person shall be imprisoned for debt in any civil action or mesne, or final process, except in cases of fraud, and no person shall be imprisoned for a militia fine in time of peace."

Mr. SLOUGH. Mr. President, I propose to strike out these words: "And no person shall be imprisoned for a militia fine in time of peace."

Mr. HUTCHINSON. I hope that will not be stricken out, unless it is going to be made to apply to us as though we were in favor of imprisonment for debt. I think there is to be a provision for excusing persons having conscientious scruples, by paying a money equivalent; and these words are intended to apply to such cases.

Mr. Slough's amendment was laid on the table—affirmative 23, negative 9.

Mr. FOSTER made an ineffectual motion to strike out the words, "except in case of fraud:" and then the section was passed.

Section 17 was read, viz:

"SEC. 17. Foreigners who are, or may become hereafter, *bona fide* residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property, as native born citizens."

Mr. INGALLS offered as a substitute for section 17, the following:

"Aliens may inherit, purchase, hold and convey real estate."

Mr. HOFFMAN submitted the following substitute for the substitute:

"No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment, or descent of property."

Mr. Hoffman's substitute was adopted, and so the section passed.

Section 18 was read and passed, viz:

"SEC. 18. All courts shall be open, and every person, for an injury done him in lands, goods, person or reputation, shall have remedy by due course of law, and justice administered without denial or delay."

Section 19 was read, viz:

"SEC. 19. No hereditary emoluments, honors or privileges shall ever be granted or conferred by this State, nor shall there be any constitutional distinctions on account of sect or sex."

Mr. STINSON moved to strike out all after the word "state," which was carried, and the section as amended passed.

Section 20 was read, viz:

"SEC. 20. Private property shall be held inviolate, but subservient to the public welfare. When taken in time of war, or other public exigencies imperatively requiring its immediate seizure, or for the purpose of making or repairing roads which shall be open without charge, a just compensation shall be made to the owners of the property in money; and in all other cases where private property shall be taken for public uses, a compensation therefor shall first be made in money, or first secured by depositing money, and such compensation shall be estimated by a jury, without deduction or benefit to any property of the owner."

[*196] Mr. STINSON. I would ask if this matter is *not embraced in the report of the committee on corporations?

Mr. KINGMAN. Only as it relates to railroads.

Mr. THACHER. "Or," should be "for," in the last line. This section is covered by the article on corporations, so far as assessments of damages for the right of way are concerned.

The section was passed.

Section 21 was read, viz:

"SEC. 21. No citizen of this State shall be held to appear before the Supreme Court of the United States on an appeal from the Supreme Court of this State, but when appeals are taken on questions of inter-State law, they shall only be through or from the District Courts of the United States."

Mr. MCDOWELL. Mr. President, it does seem to me that this section is rather absurd, and I move to strike it out. I believe the Supreme Court of the United States has no jurisdiction to authorize a citizen of Kansas to take up his case. The mode of appeal is pointed out by act of Congress. The District Court of the United States and the Circuit Court of the United States are the preliminary Courts.

The motion to strike out was agreed to, and so the section was rejected.

Mr. HOFFMAN submitted the following, to come in in the place of section 21:

"No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be passed."

Mr. SLOUGH. The Constitution of the United States provides for that.

On motion by Mr. STINSON, it was laid on the table.

Section 22 was read and adopted, viz:

"SEC. 22. This enumeration of rights shall not be construed to impair or deny others retained by the people, and all powers not herein delegated remain with the people."

And so the report of the committee on Preamble and Bill of Rights was passed [by] the Convention.

On motion by Mr. SLOUGH, the report was then referred to the committee on Arrangement and Phraseology, and ordered to be printed.

The Convention then took a recess till 3 o'clock, P. M.

AFTERNOON SESSION.

The PRESIDENT called the Convention to order at 2 o'clock.

SCHEDULE.

Mr. THACHER. Mr. President, I believe the special order is the consideration of the Schedule, and as it is so entirely incomplete with respect to the submission of the Constitution, elections, &c., and as it should be kept back, for the manifest purpose of gathering up everything at the close, I move to recommit it to the Committee on Schedule. I understand they reported under the stringency of the rule compelling standing committees to report by Friday morning. There is a large amount of matter to go in it, and if it is not recommitted, we will have to keep reconsidering it.

Mr. MCDOWELL. Mr. President, I would state that I understand the provisions are ready and the sections are prepared. As for anything that may have been overlooked by the committee on their reports—I think we are as well prepared to go on and perfect it now as we may be again.

The PRESIDENT. By what authority does the gentleman state that the sections are prepared?

Mr. MCDOWELL. I know of certain sections being written containing what the gentleman speaks of.

The PRESIDENT. The Chair would state that the report of the committee on Schedule is usually the last one taken under consideration. Provisions which are to put the Constitution in force are added in this report.

[*197] *The precedents are all in that direction.

Mr. GREER. I understand the Schedule has been before this body, and every section has been adopted but one; that was laid over as the regular business for this morning, and as it is now regularly before us, I would insist upon the Schedule being acted on as far as it is printed.

The PRESIDENT. It is impossible for gentlemen to insist. The Convention will take such action as they see fit.

Upon a division the Secretary reported—affirmative 19, negative 19.

The PRESIDENT. The report is referred back to the Chairman.

Mr. SLOUGH. Mr. President, I am satisfied there are more than thirty-eight members present, and if not too late, I would like to call for the yeas and nays.

The PRESIDENT. It is too late.

Mr. SLOUGH. Then I move that the committee be discharged from the further consideration of the report on the Schedule.

The PRESIDENT. I believe the motion is not in order.

Mr. SLOUGH. I appeal from the decision of the Chair, and call for the yeas and nays on the appeal.

The PRESIDENT. The Chair decides the motion not in order, for the reason that it is similar to a question which has already been decided.

The question, "Shall the decision of the Chair stand as the judgment of the House?" being taken by the yeas and nays, resulted—yeas 30, nays 16—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Palmer, Preston, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams—30.

NAYS—Messrs. Barton, Foster, Forman, Greer, Hipple, Hubbard, Moore, McDowell, McCune, Parks, Porter, Slough, Stiarwalt, Stinson, J. Wright, Wrigley—16.

So the decision of the Chair was sustained.

ELECTIONS AND SUFFRAGE.

Mr. BLUNT. Mr. President, I move that the Convention go into a committee of the whole on the report of the committee on Elections.

The motion was agreed to.

The Convention accordingly resolved itself into committee of the whole—Mr. Simpson in the Chair—and took up the consideration of the article reported from the committee on the elective franchise.

On motion the report was read section by section.

Section 1 was read and adopted, viz:

"SEC. 1. All elections by the people shall be by ballot, and all elections by the Legislature shall be *viva voce*."

Sec. 2 was read, viz:

"SEC. 2. The general elections shall be held annually on the first Tuesday in October, except township and municipal elections, which shall be held on the first Tuesday in April annually—until otherwise provided by law."

Mr. J. BLOOD. Mr. Chairman, I move to amend by striking out the word "first" where it first occurs. Also by striking out the words "in October," and inserting in lieu thereof the words "succeeding the first Monday of November," so that it shall read, "The general elections shall be held annually on the Tuesday succeeding the first Monday of November," &c. The election for President and Vice President comes on that day in all the States; and once in four years, at least, if the section remains as it is in the report of the committee, we will be at the expense of one election more than if my amendment were adopted.

Mr. SLOUGH. Mr. President, I hope the original section as in this report will remain undisturbed. I cannot see any good reasons for the amendment the gentleman from Douglas (Mr. Blood) has submitted, but I can [*198] see many reasons why it should not be adopted. *The time designated is in the winter, when the weather is usually severe and unpleasant for men to attend the polls; and the days are so short that part of the balloting would have to be done in the night. Another objection is in the fact that it fixes our State and County elections upon the day of the Presidential election. All who have been observers know that where elec-

tions of this character are closely connected, men are willing to sell the President for a candidate for some county office. I think that the Presidential election, being a general one, fixed by the United States law, should be distinct—and no other election should be held on that day. I have seen a candidate for sheriff defeat a candidate for Governor. Weller, of California, was defeated by less than three hundred votes, and these were taken from him in a contest for sheriff in one county. I apprehend similar circumstances might occur again. For that reason I oppose the amendment.

Mr. BURRIS. Mr. President, I would offer an amendment to the amendment by striking out, so that the section would read: "Sec. 2. The general elections shall be held annually on the first Tuesday in October, until otherwise provided by law." My motion is to strike out all in the original section between the words "October" and "until." I do not see any necessity for having township elections in the spring. I agree with the gentleman from Leavenworth (Mr. Slough) it would be improper to fix the day for our State elections on the same day with that fixed by the Congress of the United States for the Presidential election. I do not believe State elections and Presidential elections should come upon the same day; but it does seem to me that all elections for State officers should be held upon the same day with our local elections. It would lessen the expense, and we would have but one a year. We could vote for all just as well on the same day as to have two elections. October would be as suitable a time as they could select. I prefer that month to any other. I can see no necessity for having two elections the same year—as we would have according to the report of the committee.

Mr. SLOUGH. Mr. President, I hope the amendment will not prevail. It will be observed, by looking at the section, that the elections are to be just six months apart and at suitable seasons of the year. As we have just begun the work of breaking down the barriers of distinction between towns and municipalities, it does seem to me that their elections ought to be put upon the same footing. The contest for a township trusteeship might affect the same question of principle involved in the general election.

Mr. BURRIS. I withdraw my amendment.

Mr. PRESIDENT WINCHELL. Mr. Chairman, it may be, sir, that I am partial to the plan suggested by the amendment, from the fact that I have always been accustomed to see its effects. In the State of New York our State elections recurred on the day of the Presidential elections; and our township elections occurred in the spring of the year. The reasons, as I have always understood them, were these: That it was a saving of expense to the people, for the State and general election to be on the same day; and as far as the township elections were concerned it was considered best to keep them separate, and that the spring was a more appropriate time for the reorganization of township arrangements than fall. I don't know that I ever saw any local effects but what have given satisfaction to the people there. If we can so arrange our elections in Kansas, where the people have been worried out by election after election, without unnecessary expense, it seems to me we ought to do so.

Mr. THACHER. Gentlemen of the committee, we ought to consider very seriously the matter of expense connected with our elections. In October you have one, and in three weeks after you have another. November is [*199] that season of the year when farmers are *most through with their labors—the fall work is closed up and the winter work not set in—and farmers are at liberty. The cold weather has come on and driven the malaria from the land, so that there are more well persons than a month

earlier. I think the amendment a good one, indeed. In those States where they have two elections a year it is a well known fact they don't get out the same vote at the Spring election that they do at the general election. And then you save expense by having but one election a year.

Mr. BURNETT. Mr. Chairman, it is sickly in the month of October. I have been prevented, myself, from going to elections, on that account, while in November the people, as a general thing, have become convalescent, and would attend the election in larger numbers than though it occurred a month earlier. I hope these considerations will be weighed by the gentlemen.

Mr. STIARWALT. Mr. Chairman, my opinion is that I shall vote against the amendment, from very custom, if nothing else. I have always seen these elections separate, and I believe it to be a good plan. As has been justly observed, men vote nigher their sentiments by having the two elections entirely distinct. The fall season of the year is the time for the State election, and October is the more leisure time. I have experience as a farmer, and know it is the most comfortable time to go to election. Every four years the Presidential election comes, and it is only the increase of one election every four years. I think the other States, most of them, find no fault with their election times. And then when there are so many of these officers to be voted for together, it is difficult to keep up the books. I have seen precincts where they have voted till midnight. I shall vote aganist the amendment.

The amendment was adopted upon a division.

Mr. J. BLOOD. Mr. Chairman, I wish to strike out the words "and municipal." I propose to strike out these words for this reason principally: some municipal governments are already organized in our State under charters that provide for their elections on another day—the first Monday in May; and that no clash may be had I propose these words shall be stricken out.

Mr. SLOUGH. I apprehend all corporations, as a general thing, will have to come in under the general law. It seems to me that is no argument at all.

The amendment was adopted on a division.

And then the section as amended was adopted.

Section 1st, under the head of suffrage, was read, viz:

"SECTION 1. Every white male person of twenty-one years and upwards belonging to either of the following classes—who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he offers to vote at least ten days preceding such election, shall be deemed a qualified elector at such election.

1st. Citizens of the United States; 2d, persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization, and shall have resided in the United States one year next preceding any election."

Mr. BLUNT. Mr. Chairman, I propose to offer the following substitute for the first section:

"SEC. 1. Every white male person of twenty-one years of age and upwards, who are citizens of the United States, and shall have resided in this State six months preceding the election, and in the township or ward in which he offers to vote at least ten days preceding such election, shall be deemed a qualified elector to vote at such election."

The substitute was laid on the table.

Mr. PORTER. Mr. Chairman, I move to amend by striking out all after the word "naturalization" and insert as follows:

[*200] *"3d, civilized male Indians who have adopted the habits of the white man."

Mr. PRESIDENT WINCHELL. Mr. Chairman, I question whether the gentleman's amendment is in order, when considered in connection with the first line of the section: "Every white male person of twenty-one years," &c.

The CHAIRMAN. The amendment is not in order.

Mr. PALMER. I would suggest the words "male persons of Indian blood who have been by treaty or otherwise made citizens of the United States."

Mr. SLOUGH. That is liable to the same objections urged a moment ago. It would be necessary to strike out the word "white" in the first line.

Mr. GREER. Mr. Chairman, I move to strike out the words "white males" in the first line.

Mr. SLOUGH. I move to lay it upon the table.

The motion was agreed to.

Mr. HUTCHINSON. I move to strike out the word "white" in the first line.

Mr. SLOUGH. I move to lay it on the table.

The motion was agreed to.

Mr. STINSON. Mr. Chairman, I would inquire what action the Convention has taken on the motion of the gentleman from Doniphan (Mr. Porter)?

The CHAIRMAN. The Chair decided that it was out of order.

Mr. STINSON. I would suggest to the Chair that we are only defining who are "white male citizens."

The section was now adopted.

Mr. SLOUGH. Mr. Chairman, I propose to offer as section 2d the following:

"SEC. 2. Male Indians, who by treaty or otherwise, have become citizens of the United States, and who have resided six months in Kansas, and ten days at least before an election in a township or ward, may vote at such election."

Mr. HOUSTON. Mr. Chairman, I move to strike out "ten days" and insert "three months."

Mr. THACHER. I move to add "and all citizens of the different States."

Mr. BURRIS. I move to lay them all on the table.

The motion was agreed to.

Section 2 was read and adopted, viz:

"SEC. 2. No person under guardianship, *non compos mentis* or insane shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election, unless restored to civil rights."

Section 3 was read, viz:

"SEC. 3. No soldier, seaman or marine in the army or navy of the United States or of their allies, shall be deemed to have acquired a residence in this State in consequence of being stationed within the same, nor shall any such soldier, seaman or marine have the right to vote."

Mr. PRESIDENT WINCHELL. Mr. Chairman, I believe this section is not altogether what it should be. If I can have a moment to prepare a substitute I will do so. I will state what my objection is. The language of the section is: "No soldier, seaman or marine in the army or navy of the United States or of their allies, shall be deemed to have acquired a residence in this State in consequence of being stationed within the same, nor shall any such soldier, seaman or marine have the right to vote." Now I believe, sir, frauds have been perpetrated under a similar provision to this; and I object to soldiers, seamen or marines acquiring a residence——

Mr. J. BLOOD, (interrupting.) If the gentleman will notice the last clause, particularly, his objection will be removed.

Mr. PRESIDENT WINCHELL acquiesced.

Mr. HUTCHINSON. I move to strike out the word "such."

Mr. STINSON. Mr. Chairman, I shall oppose the whole section. I consider it tyrannical and outrageous to deprive a man of voting because he is in the army or navy of the United States. A man simply being on service here does not acquire the right to vote, but to exclude an officer [*201] of the army or navy who has his family *here—I say it is outrageous to cut him off from the right of a sovereign citizen, and I shall op-[pose] the whole section on that ground.

Mr. GREER. Mr. Chairman, it seems to me that such a residence as I understand a soldier's to be is a transient residence. He is under the pay of government, and assumes this kind of position in society voluntarily. He has no permanent residence. I hope no one will be so patriotic as to desire to guard a floating population with such a zeal as my friend from Leavenworth (Mr. Stinson). I understand that when I join the army, I may be permitted to spend my time three years in Leavenworth, but at any moment I may be called to go to Fort Riley or wheresoever. That is the kind of citizenship the soldier has.

Mr. SLOUGH. Mr. Chairman, I have always been opposed to the language ordinarily used in Constitutions, because of the fact that so many questions arise that are difficult of solution. We have found such a provision in the organic act of this Territory, which has given rise to considerable difficulty. I desire now that it shall be rendered so clear that no misunderstanding shall be had. I am opposed to anything that will look towards the centralization of power in the federal government. Suppose, instead of having a standing army of ten or fifteen thousand, with no provision in our Constitution to the contrary, the federal government might throw that force into the Territory, and so control its policy. I am inclined to think, from the first view of the provision proposed to be inserted, that it is a good one. The language is clear, explicit, and cannot be misunderstood.

Mr. J. BLOOD. Mr. Chairman, I am in favor of striking out of the section the word "such," and that it shall prevent any soldier or seaman from voting whether he has a residence in consequence of being in the army or otherwise, for the reason that when a soldier enlists in the army, he loses his individuality and becomes a mere machine, and is not in a condition to exercise his independence as a citizen should. I will read a similar provision in the Missouri Constitution. (Reads).

The motion was adopted, and the word "such" was stricken out. The section was then adopted.

Section 4 was read, viz:

"SEC. 4. No person shall be deemed to have lost his residence in this State by reason of his absence either on business of this State or of the United States."

Mr. MCDOWELL. Mr. Chairman, I move to strike that section out. I think it unnecessary, and the reason I offer is, that, if it were necessary this trenching upon the province of the Legislature is not right. I think it unnecessary, inasmuch as there is a well defined statement as to what shall constitute citizenship already adopted. The rule of law is that if a man goes away from a place with the idea of remaining, he loses his residence, but if he goes away with the idea of returning, he does not lose his residence.

The motion was agreed to.

Sections 5 and 6 were read and adopted, viz:

"SEC. 5. Every person shall be disqualified from holding office during the term for which he may have been elected, who shall have given or offered a bribe to procure his election."

"SEC. 6. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or who shall go out of this State to fight a duel, shall be ineligible to any office of trust or profit in this State."

Section 7 was read, viz:

"SEC. 7. Electors during their attendance at elections, and in going to and returning therefrom, shall be privileged from arrest in all cases except treason, felony and breach of the peace."

Mr. SLOUGH. I would suggest a verbal amendment. Strike out the last "and" and insert "or."

The CHAIRMAN. There being no objection the alteration will be made.

So section 7 was adopted, and the article passed, amended.

[*202] *Mr. SLOUGH. I move the committee rise and report.

The motion was agreed to.

The committee accordingly rose and the chairman reported back the article on elections and suffrage, with amendments as above.

Mr. SLOUGH. I move that the article be taken up section by section.

The motion was agreed to.

Section 1 was read and adopted.

Section 2 was read.

Mr. SLOUGH. Mr. President, I move to amend by striking out that section and insert the section originally reported by the committee, to-wit: "2d. The general elections shall be held annually on the first Tuesday in October, except township and municipal elections, which shall be held on the first Tuesday in April annually—until otherwise provided by law;" and call for the yeas and nays on the question.

Mr. HUTCHINSON. I move to lay it on the table.

On this motion the yeas and nays were demanded, and, being ordered and taken, resulted—yeas 24, nays 23—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Griffith, Hutchinson, Hanway, Hoffman, Houston, Kingman, Lillie, Middleton, Preston, Ritchie, Ross, Signor, Stokes, Thacher, Townsend, Mr. President—24.

NAYS—Messrs. Barton, Foster, Forman, Graham, Greer, Hipple, Hubbard, Ingalls, Moore, McDowell, McCune, McClelland, McCullough, Palmer, Parks, Porter, Slough, Stinson, Stiarwalt, Simpson, J. Wright, Wrigley, Williams—23.

So the motion was agreed to, and the amendment laid on the table.

Section 2 was then adopted.

Section 1 under the head of suffrage was read.

Mr. MCDOWELL. Mr. President, I move to strike out all after the word "naturalization."

Mr. J. BLOOD. Mr. President, I hope the motion will prevail if I understand the effect of it. I see by the fore part of the section that white persons are required to have residence of six months, while foreigners would have the right to vote on a residence of three days by declaring their intention.

Mr. MCDOWELL. If the gentleman will read the section carefully he will see he is wrong.

Mr. J. BLOOD. I know that under a similar provision foreigners have been allowed to vote simply upon declaring their intention to become citizens. They can come from Europe and in ten days go to the polls and vote. I see no reason why they should not be required to reside at least one year. I am not in favor of excluding foreigners by any means. I disclaim any intention of that sort.

Mr. ARTHUR. Mr. President, I offer the following substitute:

"All white male citizens of the United States who have attained the age of twenty-one years, and have been residents of this State for six months, and of the county for thirty days, and of the precinct or ward in which he offers to vote for ten days immediately preceding any general election, shall have the right to vote, and none others."

Mr. GRIFFITH. Mr. Chairman, I understand it will deprive foreigners who have not been naturalized. It will deprive that class of foreigners who have declared their intention; and I presume we are not prepared to take that conclusion either.

Mr. RITCHIE. Mr. Chairman, I hope this motion will not prevail. My opposition to it is on account of its arbitrary bearing upon humanity. I have seen in the disposition of questions involving human liberty here, a disposition to ignore humanity. I am in belief that it is not on account of my color that I am entitled to be here to-day. I believe there is no principle—I believe there is rather a principle which is common to us all—that this right should be passed upon. I would hardly claim it for myself [*203] on account of superior intelligence, yet rather would I repre*sent the elective franchise upon this principle than upon the word "white." The other day I was in conversation with a man, and he spoke about being in battle for the price of liberty. And he is to be deprived—after having obtained a boon that we consider the birthright of American citizens—is to be now robbed of that privilege; and why? Because his complexion is different to my own. In the argument with that gentleman—yes, you may laugh my friends, but I call him a gentleman not on account of his color, but on account of his having in his soul left a desire and love for the liberty that is desirable for you and me; and perhaps he has done more than those who can curl the lips and snarl upon his countenance, in behalf of the liberty we are now possessed of.

I am opposed to the measure on other considerations than this. Place

it upon intelligence and purity, and I say my mother, and sister, and wife is made the servant of a trembling weak-kneed Democracy or Republicanism. Who has made a speech that was more compact, and that showed more of intelligence than a lady in this hall a few evenings since, and yet this Constitutional Convention, on account of prejudice, on account of usage, is willing to pursue their time-honored course, and is not willing to listen to reason and facts of humanity. I am aware this is called radicalism, fanaticism; and some would not have any more sense than to call it abolitionism. Now, Mr. President, I feel that I am incompetent to do justice to the subject, but I could not have discharged my duty without having laid these views simply before you.

Mr. J. BLOOD. Mr. President, I move to lay the substitute on the table.

On this motion the yeas and nays were demanded, and being ordered and taken, resulted—yeas 42, nays 3—as follows:

YEAS—Messrs. Burnett, Blunt, Barton, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Foster, Forman, Greer, Griffith, Hipple, Hubbard, Hutchinson, Hanway, Hoffman, Houston, Middleton, Moore, McDowell, McCune, McClelland, McCullough, Preston, Palmer, Parks, Porter, Ritchie, Ross, Signor, Slough, Stinson, Stiarwalt, Stokes, Simpson, Townsend, Thacher, J. Wright, Wrigley, Williams, Mr. President—42.

NAYS—Messrs. Arthur, Graham, and Ingalls—3.

So the motion was agreed to.

Mr. J. BLOOD. Mr. President, I looked over the section rather hastily, and upon close examination I see that, as I understand it now, it does not require of a foreigner a residence in this State of three days even.

Mr. SLOUGH. Read the section.

The section was read accordingly by the Secretary.

Mr. J. BLOOD. That removes my objections to the amendment of the gentleman from Leavenworth (Mr. McDowell).

Mr. BLUNT. Mr. President, I wish to offer an amendment. After the word "naturalization," to which I have no objection, insert these words: "but no person of foreign birth shall be entitled to vote until after a residence of six months." The object of offering this amendment is to prevent the abuse of the elective franchise, which has been practiced to a very great extent, viz: the manufacture of voters out of foreigners the day before election. I have no objection at all to treating foreigners liberally as regards the right of suffrage, and I am not disposed to withhold the right of suffrage to foreigners; but every person has seen this right abused. A day before election, in large cities, thousands of voters are manufactured from foreigners who know nothing at all about our country, and are mere machines in the hands of corrupt politicians, who pay the expenses of their naturalization for their voting for some favorite candidate. For this reason I propose my amendment.

[*204] Mr. HIPPLE. I move to lay it upon the *table, and on that motion call [for] the yeas and nays.

Mr. SLOUGH. I hope not.

Mr. HIPPLE. I withdraw it.

Mr. BURRIS. I hope the amendment will not prevail.

The PRESIDENT. It has not been seconded.

Mr. PRESIDENT WINCHELL. (Mr. Thacher in the chair). It seems to me a reasonable request to strike out. As our friends are somewhat

disposed to favor the foreigner and make it an object for them to change their fealty to the government of the United States, we should perhaps do all in our power to encourage such emigration. I trust we will remove all the barriers we can.

The motion was agreed to.

Mr. HUTCHINSON. Mr. President, I move to strike out the word "white." I believe, sir, this question of suffrage is not altogether a matter of policy, that there is something else to be considered. It is one of right, to some extent. What are we about to do? By this section we are about to declare that the privilege of exercising that right shall belong to a class, without any respect or regard to merit, cultivation or anything except color. I am too much of a Democrat to believe in such a doctrine. I believe this principle is contrary to the Democratic creed. If the operation of the elective franchise is beneficial—if you and I are made better by being allowed the right to vote—then we should extend that benefit to every class of men. We ought not to say one class should be made less intelligent than we. No, sir. But why do we pretend to do it? We have the laws, the strength, the government. By that same rule every member on this floor might be disfranchised within twelve months. Any race that could get possession of the right to legislate, could as properly disfranchise the white man as we can a black man. We are not here to make a Constitution for one class—for class legislation—but to make a Constitution for the whole people of the State of Kansas, and if we, in that act, disfranchise any particular sect, the responsibility is ours. We have no right to erect separate standards as to the right of the elective franchise. No right to say that a person who has eyes of a particular color, or wears clothes of a particular color, shall exercise the privilege of the ballot-box. There might be some plausibility in an amendment that a person should have a certain degree of intelligence to become privileged to exercise the right. We must go back to the work of this morning, and revise and change our declaration of rights. It declares all men are equally free and independent, and possessed by nature of certain inalienable rights. We declared that this morning, and this afternoon we propose to stultify ourselves, and say that Chinese or blacks who happen to come here shall be disfranchised and deprived of the rights of freemen. I believe that it is not in accordance with that spirit of liberty which is now advancing before the world for us to insert a provision of that kind. It might have been justifiable generations ago, but in this age, when one-half the free States have allowed the black man to exercise the right of suffrage—we, at this late day, having the advantage of all their experience, should act with the utmost caution before we say, by this act, that we cannot appreciate this great blessing of liberty so generally, so widely, as the people of the far East. It has been said that Kansas was the place to exercise these modern ideas; that this was the field for improvement and advancement, especially with reference to our forms of government. Sir, we have endeavored to strike down the forms of tyranny, and the idea that I am better than thou—and yet we are about to insert this old relic of the dark [*205] days. I *had hoped this word "white" would not be inserted in our Constitution.

Mr. GRAHAM. Mr. President, I am opposed to striking out the word "white." I came from a State where I resided forty-eight or forty-nine years. My first vote was cast side by side with the colored man. In 1836, we changed that; and we believed the change of Constitution was made as much for that purpose as any other. I am opposed to striking

out that word "white," for I believe we have the right to say who shall have the right to vote. I am opposed to it from past experience. And another thing, I am not positive, but I think those men always voted the Democratic ticket.

The yeas and nays were demanded, and being ordered and taken resulted—yeas 3, nays 37—as follows:

AYES—Messrs. Hutchinson, Ritchie, Stokes—3.

NAYS—Messrs. Arthur, Burnett, Blunt, Barton, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Foster, Forman, Graham, Griffith, Hipple, Hubbard, Hanway, Hoffman, Houston, Ingalls, Lillie, Middleton, Moore, McDowell, McCune, McCullough, Preston, Palmer, Parks, Porter, Ross, Signor, Slough, Stiarwalt, Simpson, Thacher, J. Wright, Williams—37.

So the motion to strike out "white" was rejected.

Mr. RITCHIE. Mr. President, I offer the following amendment, to be inserted after the word "election," the words, "Provided he can read and write;" so that it will read—

"SECTION 1. Every white male person of twenty-one years and upwards belonging to either of the following classes—who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he offers to vote at least ten days preceding such election, provided he can read and write, shall be deemed a qualified elector at such election."

Mr. SLOUGH. I move to lay it on the table.

The motion was agreed to.

Mr. PARKS. Mr. President, if in order to introduce a substitute, I offer the following:

"SEC. 1. Every white male citizen of the United States, and every white male person of foreign birth who has declared his intention to become a citizen conformably to the laws of the United States, and every male person of mixed white and Indian or pure Indian blood, who has been made a citizen of the United States by treaty or otherwise; who shall have attained the age of twenty-one years, and resided in this State for six months, in the county thirty days, and in the township or ward ten days next preceding the election at which he offers to vote, and no one else, shall be deemed a qualified elector."

Mr. PRESIDENT WINCHELL. (Mr. Thacher in the chair). I move to amend by inserting the words "or Negro" after the words "or Indian."

Mr. BURRIS. I move to lay the substitute and amendment on the table.

On this substitute the yeas and nays were demanded, and being ordered and taken resulted—yeas 29, nays 15—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hubbard, Hutchinson, Hanway, Ingalls, Kingman, Lillie, Middleton, McCune, McCullough, Preston, Porter, Ross, Signor, Simpson, Thacher, Townsend, J. Wright, Williams, Mr. President—29.

NAYS—Messrs. Barton, Foster, Forman, Hipple, Houston, Moore, McDowell, Palmer, Parks, Ritchie, Slough, Stinson, Stiarwalt, Stokes, Wrigley—15.

So the substitute was laid on the table.

Mr. SLOUGH. Mr. President, I move the following substitute for the second section:

"Male Indians, who have become citizens of the United States by treaty or otherwise, and who have resided six months in Kansas, and ten days in a township or ward, the same being next preceding any election, may vote."

[*206] Mr. PRESIDENT WINCHELL. I move after the *words "Indian or" to insert "or citizens of other States."

The PRESIDENT. (Mr. Thacher in the chair). The opinion of the chair is, that this amendment is identical with the one proposed by the gentleman from Leavenworth.

Mr. SLOUGH. It is dissimilar.

Mr. BURRIS. I move to lay them on the table.

On this motion the yeas and nays were seconded, and being ordered and taken resulted—yeas 29, nays 18—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Ingalls, Kingman, Lillie, Middleton, McCullough, Preston, Porter, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams, Mr. President—29.

NAYS—Messrs. Barton, Foster, Forman, Hipple, Hubbard, Houston, Moore, McDowell, McCune, McClelland, Palmer, Parks, Ritchie, Slough, Stinson, Stiarwalt, J. Wright, Wrigley—18.

So the substitute and amendment were laid on the table.

Mr. MCDOWELL. Mr. President, I desire to offer the following as section 2d:

"SEC. 2. No negro or mulatto shall be entitled to vote at any election."

I offer that because in a clause in the Ohio Constitution somewhat similar to the first section, where the word "white" has been used, the courts have decided any person as white who has a preponderance of white blood; and thereby a great many mulattoes have been allowed to vote. As it requires a great deal of time and takes a good deal of trouble, and as it is attended with considerable difficulty to determine this question, I desire to have no misunderstanding. I start out with the proposition, that if I can, I will, succeed in having such a clause in the Constitution of Kansas. I came here instructed to oppose negro suffrage and negro equality—to advocate the enactment of a clause in the Constitution prohibiting negroes from emigrating to the State of Kansas, and, by whatever legislation, to discourage the negroes that are here from remaining. Hence, I voted the other day to exclude from our charitable institutions all negroes. I gave that vote, and my colleague gave a similar vote, in furtherance of what we conceived to be the mind of our constituents—my colleague has authorized me to state that much on his behalf. And I would be untrue to what I conceive to be a duty I owe to my constituents and my own feelings, if I did not endeavor to carry out that idea—as opposed to negro equality, to negro emigration into this State, and to discourage the free negroes from here remaining.

Mr. PRESIDENT WINCHELL. I move to insert the word "Indian" after the word "negro."

The PRESIDENT. (Mr. Thacher in the chair). The chair is of opinion that the section itself is out of order, being covered completely by the first section.

Mr. SLOUGH. The Convention may entertain a different opinion, and

for that reason I think we ought to have an opportunity to test the question.

Mr. BLUNT. Mr. President, I supposed the insertion of the word "white" would satisfy all parties, and let that word be interpreted according to its general meaning. It seems, however, that such is not the case; that our Democratic friends are not satisfied with the word "white," for fear that, by a liberal construction of that word, some person who has a drop of African blood might, perchance, be entitled to vote. Now I am willing this word "white" shall settle the whole question. I think the position which has been assumed by the Supreme Court of Ohio, is correct—that a man must be white or black—must belong to some particular class—and whichever of that blood predominates, he belongs to that class. But gentlemen are very much in fear of being tainted by a drop of African blood, [*207] while they are very anxious and eager to con*fer upon the wild Indian the right of suffrage. I believe this word will allow mulattoes, over half white, to vote; and I believe such should be the case. Gentlemen upon the other side of the House do not seem to stand so much upon the mere question of color as they do upon the peculiar shade, or whether a man possesses wool or hair upon his cranium, or the shape of the nose, or some other physiological peculiarity; for while they are rigorously opposed to any one voting who might, perchance, have a drop of African blood in his veins, they are equally eager and zealous to confer upon the wild and untutored Indian all the rights and privileges which we, ourselves, enjoy. And, Mr. President, the only solution to which I can arrive for this manifest partiality of our Democratic friends, is in the fact that while persons of African descent are generally possessed of intelligence and a just appreciation of Christian humanity, the red man almost invariably votes the Democratic ticket.

Mr. Burris moved to lay it on the table.

The yeas and nays were demanded upon this motion, and being ordered and taken, resulted—yeas 28, nays 16—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Ingalls, Kingman, Lillie, Middleton, McCullough, Preston, Porter, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams—28.

NAYS—Messrs. Foster, Forman, Hipple, Hubbard, Moore, McDowell, McCune, McClelland, Palmer, Parks, Ritchie, Slough, Stinson, Stiarwalt, J. Wright, Wrigley—16.

So the motion was agreed to.

Mr. STINSON. Mr. President, I move to amend section 2 by inserting after the word "No" the words "negro, mulatto or."

The PRESIDENT (Mr. Thacher in the Chair) decided the amendment out of order; that a similar one had already been passed upon.

Mr. WRIGLEY. I appeal from the decision of the Chair and call for the yeas and nays.

The question being, shall the decision of the Chair stand as the judgment of the House?

The yeas and nays were ordered and being taken resulted—yeas 32, nays 10—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Middleton, McClelland, McCullough,

Preston, Palmer, Porter, Ross, Ritchie, Signor, Stokes, Simpson, Thacher, Townsend and Williams—32.

NAYS—Messrs. Foster, Hipple, Moore, McDowell, McCune, Slough Stinson, Stiarwalt, J. Wright and Wrigley—10.

So the decision of the Chair was sustained.

Section 2 was then adopted.

Section 3 was read.

Mr. STINSON. I move to strike out, commencing with the word "nor."

Mr. PRESIDENT WINCHELL. I move to lay it on the table.

The motion was agreed to.

Mr. WRIGLEY. Mr. President, I move to reinstate the word "such" that was stricken out in Committee of the Whole.

Mr. PRESIDENT WINCHELL. I move to lay it on the table.

The motion was agreed to.

The question being on the adoption of the section—

The yeas and nays were demanded, and being ordered and taken, resulted—yeas 34, nays 10—as follows:

YEAS—Messrs. Arthur, Burnett, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Foster, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Middleton, McCune, McClelland, McCullough, Preston, Porter, Ritchie, Ross, Signor, Slough, Stokes, Simpson, Thacher, Townsend, J. Wright, Williams—34.

NAYS—Messrs. Blunt, Barton, Forman, Moore, McDowell, Palmer, Parks, Stinson, Stiarwalt, Wrigley—10.

So the section was adopted.

Mr. BLUNT submits the following explanation of his vote:

[*208] *Mr. President, I vote against the third section of the article on suffrage because the word "such" has been stricken out, and as the section now stands it disfranchises every person whose calling or vocation may be that of an army or navy officer, and every seaman connected with the merchant service, notwithstanding their residence in this State might be *bona fide* and complete.

Section 4 was read and adopted.

Section 5 was read.

Mr. HUTCHINSON. Mr. President, I move the following amendment: Insert between the words "duel" and "shall" these words: "or who shall be known as a common drunkard."

Mr. BLUNT moved to lay it on the table.

On this motion the yeas and nays were demanded, and being ordered and taken, resulted—yeas 24, nays 23—as follows:

YEAS—Messrs. Arthur, Blunt, Barton, Foster, Forman, Graham, Greer, Griffith, Hipple, Hoffman, Ingalls, Kingman, Lillie, Middleton, Moore, McDowell, McClelland, Palmer, Parks, Porter, Slough, Stiarwalt, Wrigley and Williams—24.

NAYS—Messrs. Burnett, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Hubbard, Hutchinson, Hanway, Houston, McCune, McCullough, Preston, Ritchie, Ross, Signor, Stinson, Stokes, Simpson, Thacher, Townsend, T. S. Wright and Mr. President—23.

So the amendment was laid on the table.

Section 5 was then adopted.

Section 6 was read and adopted.

Mr. PRESIDENT WINCHELL. I move you, sir, that the report be printed and referred to the Committee on Phraseology and Arrangement.

The motion was agreed to.

Mr. SLOUGH. Mr. President, I move that we take up the report of the Committee on Amendments.

And then, on motion,

The Convention adjourned until to-morrow morning at 8 o'clock.

TUESDAY, July 19, 1859.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

The absentees on the roll call were Messrs. Brown, Barton, Lillie, May, Perry, Simpson and Wrigley.

The Journal of yesterday was read and authenticated.

On motion by Mr. TOWNSEND, (seconded by Messrs. Slough, Thacher, Ritchie, and others) it was—

Ordered, That the courtesies of the Convention and privilege within the bar, be extended to the Rev. Mr. Bullard, Wm. H. Gill, Lyman Allen, Hon. C. W. Babcock, and Hon. E. H. Holiday.

Mr. HUTCHINSON (by unanimous consent), presented the petition of sundry citizens of Brown county, which was referred to the committee on the Legislative Department.

Mr. THACHER submitted the following:

Resolved, That all the standing Committees of this Convention, except the committee on Schedule, be required to report to-morrow morning.

Mr. INGALLS. I would suggest the exception of the committee on Phraseology and Arrangement. It will be impossible for them to come under the requisition. Several reports have been referred to that committee which are yet to be printed.

The amendment was accepted and then the resolution was adopted.

STATE CENSUS.

Mr. HUTCHINSON submitted the following:

Resolved, That the committee on Schedule be instructed to make provision for taking a complete census of the inhabitants of the Territory prior to the assembling of the next Congress, that the returns of the Census Commissioners may accompany our Constitution when the same is presented to Congress.

On motion of Mr. JAMES BLOOD it was laid upon the table.

[*209] Mr. HUTCHINSON. Mr. President, I should be *glad of an opportunity to state my reasons for offering the resolution.

The PRESIDENT. Without objection is made, the gentleman can proceed.

Mr. HUTCHINSON. I presume it must be obvious to most members that the census authorized by the last Legislature will be of but little account to us. At least two-thirds of the more distant counties will neglect entirely to observe the law, and in some of the more populous counties it

will be taken only in a partial way—some townships taken and some not—furnishing no foundation for a basis of apportionment; and therefore I offered this proposition more especially for our own advantage. I am also informed, from a reliable source, that if this proposition is made in the Constitution, we are authorized to say to the Commissioners to be appointed, that Congress, agreeably to usage, will provide for the expenses. It is not expected that the people of the Territory would be saddled with such an expense. The Secretary of the Interior, the Hon. James Thompson, has recently given his opinion, that if this Convention should make such a provision, upon the assembling of Congress, provision would be made for the payment of the expenses of the census.

FINANCE AND TAXATION.

Mr. SIMPSON, from the committee on Finance and Taxation, submitted the following report, which was laid on the table:

"SECTION 1. The Legislature shall provide by law for a uniform and equal rate of assessment and taxation, and taxes shall be levied in such manner as the Legislature shall prescribe; but all property appropriated and used exclusively for State, county, municipal, literary, educational, scientific and religious purposes, and personal property to the amount of two hundred dollars for each head of a family, shall be exempted from taxation.

SEC. 2. The Legislature shall provide by law for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects or dues of every description (without deduction) of all banks now existing, or hereafter to be created, and of all bankers, so that all property employed in banking shall always bear a burden of taxation equal to that imposed upon the property of individuals.

SEC. 3. The Legislature shall provide for raising revenue sufficient to defray the current expenses of the State for each year.

SEC. 4. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same; to which object only such tax shall be applied.

SEC. 5. For the purpose of defraying extraordinary expenses, and making public improvements, the State may contract public debts; but such debts shall never, in the aggregate, exceed one million dollars, except as hereinafter provided. Every such debt shall be authorized by law, for some purpose specified therein, and the vote of a majority of all the members elected to each House, to be taken by the yeas and nays, shall be necessary to the passage of such law, and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and for the payment, when it shall become due, of the principal thereof; and shall specially appropriate the proceeds of such taxes to the payment of such interest and principal; and such appropriation shall not be repealed nor the taxes be postponed or diminished until the interest and principal of such debt shall have been wholly paid.

SEC. 6. No debts shall be contracted by the State, except as herein elsewhere provided, unless the proposed law for creating such debt shall be first submitted to a direct vote of the electors of this State at some general election, and if said proposed law shall be ratified by a majority of all the votes cast at such general election, then it shall be the duty of the Legislature next after such election to enact said law and create such debt, sub-

ject to all the provisions and restrictions provided in the preceding sections of this Article.

[*210] SEC. 7. The State may also borrow money to *repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or to the re-payment of the debt thereby created."

AMENDMENTS—HOMESTEAD.

On motion by Mr. SIMPSON, the Convention now resolved into a Committee of the Whole—Mr. Slough in the Chair—and took up the Articles on amendments to the Constitution—printed in yesterday's report.

On motion by Mr. MCCLELLAND it was ordered to be read and considered by sections.

The first section was read as follows:

"SEC. 1. Propositions for the amendment of this Constitution may be made by either branch of the Legislature, and if two-thirds of all the members elected to each House shall concur therein, such proposed amendments shall be entered on the Journal, with the ayes and noes; and the Secretary of State shall cause the same to be published in at least one newspaper in each county of the State where a newspaper is published, for three months preceding the next election for Senators and Representatives, at which time the same shall be submitted to the electors, for their approval or rejection, and if a majority of the electors voting on said amendments, at said election, shall adopt such amendments, the same shall become a part of the Constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately, but not more than three propositions to amend shall be submitted at the same election."

Mr. KINGMAN. Mr. Chairman, I move to amend by prefixing to the section the following:

"The people have at all times a right to alter, change or modify their Constitution or form of government in any way or manner they see proper."

Mr. THACHER. I second the amendment.

The amendment was adopted—affirmative 23, negative 10—and so the section passed.

The second section was read as follows:

"SEC. 2. Whenever two-thirds of the members elected to each branch of the Legislature shall think it necessary to call a Convention to revise, amend or change this Constitution, they shall recommend to the electors to vote at the next election of members to the Legislature, for or against a Convention, and if a majority of all the electors voting at said election shall have voted for a Convention, the Legislature shall, at the next session, provide the law for calling the same."

Mr. THACHER. It strikes me that when the whole subject of a Constitution is submitted to the people, a majority of the Legislature ought to be sufficient to authorize it. Therefore, I move to strike out "two-thirds" and insert "a majority."

Mr. HOUSTON. Mr. Chairman, it seems to me better not to change Constitutions too rapidly, and that it would give too great facility to change to subject the Constitution to the ordeal of amendment by simply a ma-

jority vote of the Legislature. And I am opposed to it, because the people will have to pay the expense of these elections and Conventions. It seems to me that there will be laid upon us, very soon, as much expense as the people of Kansas will be able to bear for twenty years to come, without this. The first section requires a two-thirds vote of the Legislature to call a Constitutional Convention, and now here it is proposed that a majority may do it; that on any occasion, by a majority vote, the Legislature may call such an election and put the people to the expense of thousands of dollars. It seems to me, sir, that we ought not to be compelled to go through these formalities for a change of the Constitution without very good reasons for so doing, and whenever there shall exist a sufficient cause to make it clearly the duty of the people to change their Constitution, it seems to me that two-thirds of their representatives would be in [*211] *favor of it. I, for one, am unwilling to subject the fundamental law to such facility of change.

The motion was rejected and then the section passed.

The final section in the report was read as follows:

MISCELLANEOUS.

"A homestead of one hundred and sixty acres of land, or in lieu thereof a house and lot not exceeding in value two thousand dollars, or in lieu thereof, real, personal or mixed property to an amount not exceeding two thousand dollars, belonging to any one family, shall by law be exempted from forced sale under any process of law; and shall not be alienated without the just[1] consent of husband and wife, in cases where that relation exists; but no property shall be exempt from sale for taxes or for the payment of obligations contracted for the purchase of said premises, or for the erection of buildings thereon."

Mr. PRESIDENT WINCHELL. Mr. Chairman, I offer an amendment. After the word "wife," to the end of the line 22, strike out these words: "in cases where that relation exists."

It received no second.

Mr. J. BLOOD. Mr. Chairman, I move, as a substitute, the following:

"The privilege of the debtor to enjoy the necessary comforts of life, shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted."

Mr. HOUSTON. Mr. Chairman, in reporting this homestead provision, I was not in favor of making it quite so great as presented. But I am most decidedly in favor of a homestead exemption. I believe that no measure can be presented to our consideration more important in the final workings of the system, and more for the ultimate benefit of the people of Kansas, than this homestead exemption. I believe, in the first place in having a large State, and then in giving permanency to the population of the State; and I know of no better way to secure these objects, than to engraft into the Constitution which is to come out [of] here some provision of this kind. I ask any gentleman to reflect on the consequences in this new State of leaving every man's property to the mercy of circumstances. Why, sir, a man would not desire to come in here and reside without the assurance of possessing something permanent for the support of his family. With reference to those engaged in trade and commerce, their homes, or

[1] NOTE.—See correction of this word on * page 221.—*Ed.*

their personalty, will be exempt, and this class of men also will be better off, because of the security of the homes of the farmers. The farmers strengthen the commerce and trade of the country. And a man who has 160 acres of land, will be more likely also to have something on which an execution could fasten. But I do not believe in this large credit system. It just puts everything into the hands of the creditor. I do not know but one of the most wholesome provisions in the Constitution would be something like this: that after a certain time—say the first of January, 1865—no debts shall be collectable by law in the State of Kansas. This, I know is ultra doctrine, but in its genial workings it would be better than prosecutions at law, and the sacrifice of property under judgment and execution. But we only ask for any person who comes into our State and makes a home for his family that it shall not be swept away from him by any ruthless intervention. But gentlemen propose to leave to [the] fixing of this exemption to the Legislature, when it would be liable to be voted up one session, and down the next. Sir, if we leave it to the mutations of legislation there will be no security for the homestead, and we might live to see here—as I have myself seen—the last feather-bed taken away from a family when there were six or seven children. Mr. Chairman, we want to impart this security to the agriculturalists of the country, for if its agriculture is not flourishing and prosperous, every other interest in civil society must suffer. [*212] If you give no permanence to agricul*ture, you leave every other public interest without the encouragement of the government. But it may be said, this will induce men to come in and settle here who are bankrupts at home—bankrupts will come in and secure homes! Certainly, I do not want to invite these especially, but let us look at it as a system of policy. If this exemption should be the means of bringing millions of capital into the State of Kansas—and there might be many who would not come if they were not embarrassed—but if millions of capital were to come in to secure homesteads for the unfortunate, I want to know if the influx of capital inserted in permanent improvements would not be a most incalculably valuable acquisition to the State! And if bankrupts should come—does it follow that, because a man has been unfortunate, therefore he should not have a house on the footstool of God? It is the aim as it is also the necessity, not only of the unfortunate, but of all men, to look out for a habitation for his family—to seek for a home—a fireside—and it is a most beneficent act in the government to secure the blessings of home to every man forever. I trust, sir, that by the adoption of this provision, we shall give to the agricultural interest a prominence and permanence in this State, that will soon be known and appreciated throughout the whole country.

Mr. GRIFFITH. It is enough for me to know that the people of this Territory—Democrats and Republicans—demand at our hands that this body shall secure for them a liberal homestead; and I think, if we adopt the proposition of my friend from Douglas (Mr. J. Blood), the people will see at once that we are endeavoring to dodge the whole question, because that would place it in the power of the Legislature to say ten acres, or five acres, or whatsoever should be the amount of the exemption. But while I am opposed to the substitute, I am also opposed to the section as it now stands. I would strike out from the 20th and 21st lines these words: "not exceeding in value ten thousand dollars, or in lieu thereof, real, personal or mixed property to an amount not exceeding two thousand dollars."

Mr. J. BLOOD's amendment was rejected—affirmative 13, negative 25.

Mr. BURNETT proposed to strike out the word "or, in lieu thereof, real, personal, or mixed property to the amount of two thousand dollars." When these words shall be stricken out, he said, the section will be the same as in the Leavenworth Constitution.

It was not seconded.

Mr. BLUNT offered as a substitute the following:

"The Legislature shall provide by law for the exemption from forced sale, except for taxes, of real or personal property not less in value than seven hundred dollars for each head of a family."

Mr. BLOOD. Mr. Chairman, while I am in favor of a homestead law, I am not in favor of the proposition of the committee nor of that of the gentleman from Bourbon. I think it very proper that we should provide here for an exemption law. I am opposed to the proposition, that 160 acres of land shall be exempted, because it is not specific in character, and would operate unfairly and unjustly. For instance, one man might have his 160 acres of land situated near the city of Leavenworth, that might be worth twenty or twenty-five thousand dollars, and he would have exempted from execution that amount of property, which could not be made available for the payment of his honest debts; whilst another man might have his quarter section of land in the interior, where it might not be worth more than three or four hundred dollars. Consequently, whilst one man may have exempted his thirty or forty thousand dollars, another man's exemption will not exceed three or four hundred dollars. I know, that in the Leavenworth Constitution this feature was objected to by many—not that they were opposed to exemption, but because it was not specific in its character. And I believe, if such a provision is inserted into this Constitu-
[*213] tion *that in the county I represent a great many votes will be polled against it from this very fact. Nor am I in favor of confining the benefits of exemption to those owning real estate only. I think that they should be extended to all classes, and that the amount—the minimum amount which the Legislature may pass upon should be fixed, so that the person to be benefitted may take his choice between an exemption of real estate and personal property. Because there are people who own no real estate—many mechanics and industrious working men, who never own any real estate. And for one, I do not propose to cut off this class of worthy citizens from the benefits of an exemption law, and permit the law to strip them, whilst the man who has invested in real estate is protected by the law.

Mr. HOUSTON. Mr. Chairman, it is impossible to adopt any great principle of law that shall be free from all difficulty. The gentleman himself proposes to exempt $700. My opinion is that a quarter section of land in this Territory will not generally sell for more than $500; so the gentleman proposes really to go further than we do. At all events, if $700 will buy a majority of the farms in the Territory, his proposition effects nothing in the way of reducing the exemption. But the gentleman from Douglas may own his quarter section near some town or city, and such a man may be rich, and still his property cannot be touched. But should the great interest of agriculture be neglected, because there are a few such cases? Should we not rather hold out inducements to the people to enlarge the agricultural interest? It is the true policy of the State to foster the agricultural interest—to give it strength and permanence, in order that the mechanics, lawyers, doctors and merchants may have something to subsist upon. The gentleman says he wants to have all men

share equally in the benefits of this exemption; and he objects to this because there are many landless—many who prefer to rent, and never own land. There may be a difficulty here. But I think the Legislature can provide for that. And I think here, that the agricultural interests are so transcendently important that they merit our special attention.

Mr. GRIFFITH. The object, sir, is not [to] throw obstructions in the way of the creditor collecting his debts. I would be the last man to advocate such a thing. But we desire this homestead clause, because we wish to see recognized the broad principle of every man's right to his home, and because we wish the family—the wife and children protected from the effects of imprudence and from misfortune, and because we do not wish to throw the helpless completely into the power of the creditor. I am opposed to the exemption of personal property. I believe that personal property and moral worth should be a man's means of credit, and not his home, which is for the well being of his wife and children. I hope the Convention will accord the right to every family to have a home that shall be protected against misfortune. I think the people demand this at our hands; and, sir, if we dodge this issue by referring this principle entirely to the Legislature, or by incorporating a worthless principle, I think we shall be held to an account for it. I do not care so much what may be the specific value of the homestead. We labor for the protection of the home of the family, let it be worth more or less.

Mr. LAMB. Mr. Chairman, I am instructed by my constituents to throw my little influence in favor of a homestead, and my reason for doing so is about this: we consider that every individual is entitled to the air he breathes, the water he drinks, and to some place on God's green earth that he may call his home. Some seem to conclude, that if there is granted to every man the legal protection of a home for his family, there will be no chance for his creditors. Mr. Chairman, I look upon it in a different light. If there shall be a homestead granted to every citizen of Kansas, as in this proposition, the merchant must be aware of that fact—[*214] must be aware that the homestead is not comeatable for *debts under the laws—and so, if he credits a man, it must be upon his honor—and that is the true foundation of credit. For, if I violate my word, my credit is gone, and consequently, when I come to get credit again, the trader says: "No, sir; you have fooled me once, and you cannot get any more credit here." Taking these considerations—that every family will be secure of a permanent home, and that there will be less litigation in the country, I shall support this section.

Mr. PRESTON. Mr. Chairman, I am in favor of the Homestead principle; and would be in favor of some amendment to this section, which would show no discrimination between men owning farms, and those who follow other pursuits. I would ask, if a man follow a mechanical business in preference to a life on a farm—if he is not entitled to a support as much as the man who cultivates the soil? It seems to me that if we strike out the exemption of personal property, we shall make an unjust discrimination between the man of agricultural pursuits and the mechanic and laborer. I am not in favor of that. Neither am I in favor of the proposition of the gentleman from Anderson (Mr. Blunt) because it does not look to the protection of the agricultural interests. It is true that the provision reported will work unequally in the case of men living near towns and cities, yet in the great majority of cases it would not be subject to this objection, and it is proper that the agriculturalists, who form and constitute the wealth and greatness of the State, should be especially bene-

fited by this law: and it is also a good provision which secures the homestead from alienation, except by the consent of the wife.

Mr. J. BLOOD. Mr. Chairman, I offered my amendment, not because I was opposed to a liberal exemption, but because I cannot believe it is proper to insert into the Constitution any proposition which might be just as properly left to the Legislature. In fact, I believe I would myself be in favor of abolishing all laws for the collection of debts. I believe it would be better for the people of the State in common—both for the debtor and the creditor—if there were no laws for the collection of debts. But my substitute was not offered in consequence of any hostility toward a liberal homestead exemption. I agree with the gentleman from Shawnee (Mr. Greer) that mechanics and others, not owners of real estate, are entitled to an exemption to a reasonable amount. I have no special objection to the section reported, if its benefit be extended to this class—and, if such a provision must be inserted in the Constitution.

Mr. BURNETT. Mr. Chairman, the gentleman from Shawnee (Mr. Greer) says there is nothing here for the protection of the mechanic and the merchant, but I see here this clause: "or a house and lot, not exceeding two thousand dollars in value." If a man live in town, and carry on his business in a town or city, and chooses to put his property into this shape, here is a provision that applies to his case. I take it, sir, that the idea of a homestead, is a home for the family, and if a man does not choose to avail himself of the privilege and benefit of the law, who is to blame but himself? Certainly, it is not the law.

Mr. Blunt's amendment was rejected, and the question recurred on Mr. Winchell's.

Mr. PRESIDENT WINCHELL. Mr. Chairman, in offering my amendment, I did not intend that it should work injustice. I should be in favor of any clause by which this provision could be made to apply to families; and as it occurs to me that my amendment might prove injurious in the case of widows and widowers, I therefore ask leave of the Convention to withdraw it.

Mr. GRIFFITH proposed to amend, by inserting after the word "land," in the 19th line of the report, these words: "or used for agricultural purposes."

[*215] *Mr. WINCHELL. Does not the word "homestead" sufficiently define the word "land?"

Mr. THACHER. Mr. Chairman, the object to be gained here is this—and the argument of those opposed to the homestead show it—it proceeds upon the supposition that every man ought to have a home—a sufficient amount of land to secure his family from want on account of forced sale on execution. But a man should not be permitted to exempt too much under the guise of a homestead. I should be loth to see the section pass in this shape, because it protects property, under the guise of a homestead, which is not a homestead. I should prefer the exemption of land to the value of two thousand dollars. Most farms of one hundred and sixty acres, five years hence, will be worth more than two thousand dollars. I would rather abolish all laws for the collection of debts, than that the section should pass in its present shape. I think a two thousand dollar exemption would be ample, and more than ample in most cases. It is greater than the exemption of any State in the Union. I think, also, that it should be a homestead, proper, and not all sorts of property. We ought not to

allow a man to gather around him horses and cattle, and call such a homestead.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I have a word to say in favor of the homeless. I have always been in favor of providing a liberal homestead for all. I am not, however, in favor of indicating here how much that exemption shall be. I would place the right of a man to the soil, on the broad basis of a boon or a blessing, which shall remain to a certain extent above the power of legislation; and I would secure an unlimited homestead, so far as value goes, because a man's right to his home is inalienable. It should be so much land—it matters not whether the value is one dollar or one thousand dollars per acre. He obtains no more than a subsistence in either case. Sir, I am in favor of homes for all—homesteads for all. At the same time, I am not in favor of enacting an exemption law under this head. That is a matter with the Legislature.

Mr. WRIGLEY offered as a substitute the following:

"Exemption laws from forced sale under any process of law shall only accrue to the benefit of resident householders; and in no case shall an amount of property, real, personal or mixed, of value exceeding one thousand dollars, be so exempted; but no property shall be so exempted from sale for taxes or for the payment of obligations contracted for the purchase of said premises, or the erection of buildings thereon."

Mr. HUTCHINSON moved to lay it on the table.

The Chair decided that a motion to lay an amendment on the table, carried with it all the amendments.

Mr. THACHER. I appeal from that decision.

The House divided on the appeal—affirmative 8, negative 15—no quorum voting.

The CHAIRMAN. The Chair is not sustained, neither is Jefferson. (Jefferson's Manual.)

Mr. HUTCHINSON. I withdraw the motion to lay on the table.

Mr. PRESIDENT WINCHELL. I rise to a point of order. The point I wish to make is, whether there is any table in committee of the whole, under our rules?

The CHAIRMAN. I presume that the precedents we have ourselves established should be adhered to, in the absence of any positive rule to the contrary, and the Chair will so hold.

Mr. WRIGLEY. Mr. Chairman, I did not think there was anything so monstrous in my proposition as to induce any gentleman to manifest a desire to lay it on the table. I think it embraces the correct doctrine. I will read it again. (Reads). Sir, I am in favor of this. I think the original proposition is decidedly mischievous in its character. Let us look at it. Every member, I presume, will agree with me, that it is not the province [*216] *of this Convention to legislate but to define the powers and duties of legislation, and there its duties terminate. And I think it must be apparent to every member, that this is an act of legislation—that passing a homestead bill is legislation, and not matter of Constitutional enactment. And then, what would be the effect of such a law, suppose it to be incorporated into the Constitution?—a homestead of one hundred and sixty acres, or else a house and lot, not exceeding two thousand dollars in value? Suppose that one hundred and sixty acres should lie adjoining the city of Leavenworth—there would be a property of the value of fifteen or twenty thousand dollars exempt from execution. It makes no discrimination

between the value of lands exempted in different localities. I entirely agree that that provision of law should be made to protect the home of the family of every *bona fide* resident, yet I think that a homestead law should be general and equal and uniform in its operation, and that no such law should exempt property of more value in one man's hands than in another's. But, sir, under the provision reported, you might have your one hundred and sixty acres, worth fifty thousand dollars, exempted, whilst mine might not be worth one thousand; and you might be wealthy, with money in bank, and although you might be owing ten thousand dollars, it could not be collected, and your fortune in money and lands could not be touched. It seems to me, sir, that whatever homestead law is passed, it should be with restrictions—such as shall make it uniform in its operation, exempting an equal amount of property in all cases. I think, sir, it is manifest, that this section exempts too much—that so large an exemption would operate injuriously, by rendering it impossible to collect debts. It would ruin the credit and close up the business of many a worthy and enterprising man. It has been said by gentlemen in favor of this provision, that it would prevent the collection of debts contracted after a certain time. I have no doubt that its operation might prove beneficial to perhaps a majority of the members of this body. I know it would be a benefit to me. But the question might still arise, whether such a sweeping exemption would be a wholesome provision for all. But my substitute, while it leaves it in the power of the Legislature to exempt a suitable homestead, restricts them so that they shall not exempt property to such an extent as to prevent the collection of debts. I believe that the proposition I have offered would authorize an exemption as liberal as that of any State in the Union. I know that in the State of Indiana only three hundred dollars are exempted —and this question has been considered there for many years, both before and since the adoption of their new Constitution. My provision would authorize a suitable homestead exemption, and at the same time restrict improvident action of the Legislature in this direction. It is strictly a constitutional provision, devoid of anything that can be called legislation on the subject.

Mr. STIARWALT. Mr. Chairman, I shall vote against the substitute, for the reason that it would give no man a homestead. It would exempt a thousand dollars; but if a man's home were worth twelve hundred dollars, it would sell him out. I say, sir, if a man is to have a homestead, let him have it—let it be his own. I am not in favor of exempting one hundred and sixty acres, but I would be in favor of half that—I would exempt eighty acres; and, sir, if he has been so fortunate as to get his land in a good place, it does not amount to anything how he got it, or where he has it. I would like to have a homestead law. But if we cannot get that, let it be an exemption law. Let us not tell the people we have a homestead, when it is not permitted that a homestead may be authorized.

Mr. GRIFFITH. Mr. Chairman, I want to offer a few reasons why I [*217] shall not go for the propo*sition of the gentleman from Doniphan (Mr. Wrigley). I believe the exempted land should not be made an object of speculation. I believe that a homestead of 40 acres should be exempted from every kind of legal process. And I fancy that there could be no better state of society formed than that which would allow every family to possess 40 acres of well cultivated land. But the amendment does not propose to exempt land. I wish gentlemen to discriminate between the amendment of the gentleman from Doniphan and the original section. The gentleman from Doniphan presents an exemption law, whilst the proposition of the Committee presents a homestead law. This is the difference

between the two; and I hope the Convention will place itself upon the broad principle, that every family in the State ought to be protected in the possession of a homestead. Another objection is, that the amendment does not recognize the joint right of the husband and wife. The proposition of the gentleman from Doniphan recognizes no such principle: and I hope the Convention will recognize the wife's right to the actual control of the homestead. I hope we shall be liberal enough to see that the mother of the family shall have a voice in the alienation of the homestead, and that we shall not leave this to the rapacity of legislation.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I desire to call attention to another wide distinction between the amendment of the gentleman from Doniphan and the section in the report. The proposition of the gentleman from Doniphan is altogether restrictive in its character. It is the spirit of the section, as it stands here in the report, and to which the Convention has agreed, that the family shall be protected in the enjoyment of a home. The gentleman's proposition restricts the Legislature, and provides that they shall pass an exemption law, not above a certain amount. The one contains the guarantee of a home to be protected by law, whilst the other is altogether restrictive—intended to limit the action of the Legislature, and in fact defeat the measure.

Mr. WRIGLEY's amendment was rejected.

The question recurring on the motion of Mr. Burnett to strike out certain words, it was agreed to.

Mr. FOSTER submitted the following by way of substitute:

"The homestead of a family, not exceeding 80 acres and not included in any city or village, nor exceeding one thousand dollars in value, or instead thereof, any lot or lots in any city or village, being the homestead of a family, and not exceeding in value one thousand dollars, shall not be subject to forced sale on execution for any debt or debts contracted after the adoption of this Constitution; *Provided*, no such property shall be exempt from sale for taxes, nor shall in any manner affect any mechanics' or laborers' lien, or any mortgage thereon lawfully obtained."

Mr. HUTCHINSON. Mr. Chairman, we are now providing for a homestead law, and this is widely another thing. It proposes, not a homestead, but an exemption law. Have not the committee decided whether we will have a homestead or an exemption law?

Mr. GRIFFITH. Mr. Chairman, I see here the same objection I had to the proposition of the gentleman from Doniphan—that is, the exclusion of the voice of the wife in the alienation of this property. I hope the Convention will take the position that the woman, as well as the man, shall have a voice in this matter. I hope that we shall take the position that a reckless, drunken husband shall not have the power to alienate the home of his family. Many a man takes advantage of this power. But I hold, sir, that we should adopt a different principle. The object is to protect the poor, the weak, the orphan children and the destitute mother of the family, and I hope the Convention will not adopt any proposition that does not broadly recognize this principle.

Mr. Foster's amendment was rejected.

[*218] *Mr. STINSON proposed to amend the section by adding the following:

"*Provided*, such exemption shall not operate until the person claiming the benefit of the same shall record on the Deed Book of the Register's office in the county where the property to be exempted is situated, a description

of said property sought to be exempted, and a notice of the intention of such person to claim the benefit of such exemption, and such exemption shall not apply to debts contracted prior to the time of such record."

Mr. HUTCHINSON. Mr. Chairman, I move to amend the amendment by striking out the last member of the last sentence: "and such exemption shall not apply to debts contracted prior to the time of such record."

There was no second.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I was at first rather in favor of this amendment of the gentleman from Leavenworth (Mr. Stinson). It seems to me no more than reasonable that public notice should be given of the intention to exempt property. But when I reflect that the object is to protect the family, and not the head of the family merely—and when I reflect that, in a majority of cases, the head of a family most needing this protection, through carelessness might neglect the proposed registry, it seems to me that the amendment would be tantamount to a defeat of the proposition. I am also informed of the practical working of this very feature, in the State of Maine, by a gentleman who hails from that State—that practically it prevents the operation of the homestead law, because the registry is not attended to. I therefore oppose the amendment.

The proviso was rejected.

Mr. THACHER moved to insert the words "not to exceed $2,000 in value."

Mr. HOUSTON. Mr. Chairman, I hope this amendment will not be adopted. I feel an earnestness in this matter. What will be its practical effect? Instead of giving permanency and value to the homestead, its effect will be to leave all to the uncertainties of legislation. Suppose you say the homestead shall not exceed a certain value; will not the man who lives on his land and is involved in debt be compelled to curtail his improvements for fear of execution? Yes, sir, his place will go into dilapidation. What is the object of giving security to a homestead? It is to give permanency. Then let us give the highest possible value to the land to be exempted; for that would be to aid the great agricultural interest. Suppose you allow me one hundred and sixty acres with improvements, and suppose their value to extend to $10,000, I want to know if the State of Kansas would not be better off. Sir, I go in for a great State and for the encouragement of improvements—for allowing every man who is a man of taste to improve his house to the utmost, instead of compelling him to neglect his home. I do not want to make Kansas the meanest State in the Union.

Mr. HUBBARD submitted the following:

"A homestead of eighty acres of land, or in lieu thereof a house and lot not exceeding in value one thousand dollars, or in lieu thereof real, personal or mixed property to an amount not exceeding one thousand dollars"—and the balance of the section as read.

It was laid on the table.

Mr. GREER. Mr. Chairman, I move to strike out the words "belonging to any one family" and insert "belonging to the head of a family." I do this for the reason that I conceive, in the legal construction of this language, that the homestead belonging to any one family would not cover the land as belonging to the family.

The amendment was agreed to.

Mr. Ross. Mr. Chairman, I move to insert in line 19, after the word "law," these words: "with the improvements thereon."

Mr. PRESIDENT WINCHELL. Mr. Chairman, I move to reconsider the [*219] vote by which the words *"any one family" were stricken out. I desire to know whether the phrase "head of a family" does not apply to a single man or a single woman? The opinions of lawyers, it seems to me, divide upon this question. I made inquiry of a lawyer as to whether a young, unmarried man could be regarded in law as the head of a family, and he assured me that he could not. Another lawyer gave it as his opinion that he was, and so I became very much confused in my judgment about this. It seems to me, however, that if it is proper for an unmarried man to have a homestead, it is entirely right and proper that an unmarried woman should have the same right. I desire to have this legal question settled.

Mr. WRIGLEY. Mr. Chairman, if I were consulted on the case I should say that in my judgment a single man may be the head of a family.

The vote was considered,[1] and Mr. Greer's amendment was rejected.

Mr. MCDOWELL offered the following by way of substitute:

"The Legislature shall provide by law for the exemption of forced sale, except for taxes, mechanics lien and mortgages or other lien for the purchase of many a homestead, to every head of a family, not exceeding in value two thousand dollars."

It was laid on the table.

Mr. STINSON offered the following by way of substitute:

"The Legislature shall pass a reasonable homestead exemption law, and may pass other reasonable exemption laws."

Mr. STINSON. The difference between this and the other substitute is, that mine gives a reasonable discretion to the Legislature in relation to the passage of an exemption law, and is mandatory with regard to a homestead exemption; whilst the other is merely peremptory in requiring the passage of an exemption law.

Mr. KINGMAN. If the President of this Convention, before this committee, was in doubt as to the legal significance of the language of this section, it might be easily presumed that one of the humblest members of this body might be in the same condition with regard to the amendment. I should like to know what a reasonable homestead would be? In the opinion of the gentleman from Doniphan (Mr. Wrigley) it is eighty acres of land. In the opinion of the gentleman from Bourbon (Mr. Griffith) it is one hundred and sixty acres. It seems, sir, that a good deal would depend upon the particular notions of gentlemen in their decisions upon this question. I am afraid, sir, that this whole section is defective for want of that certainty in construction and meaning which should characterize all legal enactments.

The substitute was laid on the table.

Mr. THACHER. It seems to me that as the section now stands the man and wife may give a mortgage on their land, and yet it would be impossible to sell it under process of foreclosure. Therefore I wish a clause to be added to this effect: that the exemption shall not extend so far as to invalidate a mortgage or lien. I would add these words:

"*Provided*, That the provisions of this section shall not apply to any process of law obtained in virtue of a lien given by the consent of both husband and wife."

[1] NOTE.—Probably "reconsidered," as the motion was to reconsider the vote by which Mr. Greer's amendment was adopted.—*Ed.*

Mr. KINGMAN. Mr. Chairman, I have an argument against this. Gentlemen do not seem to take the distinction between a homestead and an exemption law. The object of a homestead law is very unlike that of an exemption law. And I think the amendment proposed is calculated to defeat the homestead principle. I think that is its object. It is within the recollection of many when it was the settled policy of many of the States, that the land should not be subject to sale for the payment of debts. But the commercial interests of the country by their power and skill produced a change which has subjected the farms and homes of the people to be sold under execution, and so nearly converted our people into a class of nomads. [*220] I want, if possible, to *restore the old policy—to change back again—so that every man or woman, if he plants a tree or she cultivates a rose—that both may beautify and adorn their homes as they may choose, and have the benefit of the protection of the law. But if we put it in the power of the husband or the fortunes of trade to convey by lien or mortgage, the grasping creditor will take away the homestead. I want to separate this subject from anything like the consideration of an exemption law. I approach this as a great measure which rises above all considerations of the rights of debtor and creditor. I abhor an exemption law. This is not of the same nature. This is to go forth, the promulgation of a great principle, that shall encourage the cultivation of the soil. The case was well illustrated by the gentleman from Ri'ey (Mr. Houston); and though it would be impossible for me to emulate the flights of his fancy and the boldness and strength of his doctrine, I am not therefore restricted as to my full share of feeling and anxiety for the success of this most important measure.

Mr. GREER. Mr. Chairman, if it is understood that the homestead exemption has the legal effect to take away from the family the power to dispose of it, then any conveyance, whether for commercial purposes or for any other account, would be invalid. Such a provision would be equivalent to a surrender of the title of the owner, or to give a mere life lease with the right of descent to the offspring. I prefer the section as it is. There should be no question about the right to dispose of the property.

Mr. BLUNT. Mr. Chairman, I wish to inquire whether the objection made by the gentleman from Douglas (Mr. Thacher) is not provided for in the 22d line, in this clause: "and shall not be alienated without the consent of the husband and wife." It appears to me, sir, that that would cover the case of any mortgage. If it does not, however, I will go for the proposition of the gentleman from Douglas.

Mr. STINSON. Mr. Chairman, I hope it may prevail, if for no other reason to relieve the people from debt!!! This is intended and will go so far as to prevent any sale under process of law; and it is well known that in the case of a mortgage or trust deed the creditor would be forced into a court of equity. I hold, sir, that to pass this would be an act of oppression against those petitioning and claiming the benefit of this exemption: for it adds a disability instead of giving a privilege.

Mr. J. BLOOD offered as a substitute for the section the following:

"A homestead not exceeding one hundred and [1] acres of land, or in lieu thereof a house and lot or lots, in any city or village, owned and occupied by any resident of this State, shall not be subject to forced sale on any execution for any debt or debts growing out of, or founded upon contract either express or implicit.

[1] NOTE.—Probably he omitted the word "sixty."—*Ed.*

"*Provided*, That such exemption shall not effect in any mortgage thereon, lawfully obtained; nor shall the owner, if a married man, be at liberty to alienate such homestead unless by consent of his wife."

Mr. PRESTON. Mr. Chairman, I do not see, perhaps, exactly the point in the amendment of the gentleman from Douglas (Mr. J. Blood); but, if I do, it seems to me entirely out of place. What is meant by this phrase in the 2d line of the original report: "and shall not be alienated without the just consent of husband and wife"? If that does not cover the ground asked for, I do not know what meaning we are to attach to words.

Mr. HUTCHINSON. Mr. Chairman, it seems to me this word "just" is unnecessary, for we are obliged to suppose that whatever is legally conveyed is just, unless we can conceive of an unjust consent.

Mr. GRIFFITH. Mr. Chairman, I presume it is a misprint—that it should be "without the joint consent."

Mr. THACHER. Mr. Chairman, the first clause of this section provides [*221] absolutely that one hundred and sixty acres shall be exempt *from forced sale under any process. This is clear and explicit, and the question is, whether any difficulty might grow out of what follows; for these are conditions which cannot be escaped. The next clause to which the gentleman refers, if it really does mean what he says, and the courts would so construe, I should not have offered the amendment. But with this clause standing as it does, it seems to me as if any lien or trust that might be created upon the homestead would be governed only by the first part of the section. And I think the Convention has determined that a homestead shall not be alienated in any way. It makes no difference to me, sir, but I wish the Convention to say whether the man and his wife cannot give a mortgage that shall be valid. I wish the expression of opinion here.

Mr. BURNETT. Mr. Chairman, believing the word "just" here is a clerical error, which ought to be printed "joint," it seems to me that will obviate the gentleman's difficulty.

Mr. PRESIDENT WINCHELL. Mr. Chairman, it seems to me that after a long discussion we have reduced this section to a satisfactory shape; and that we should not now introduce new propositions involving the risk of disarrangement and defeat of the measure. Hence I am opposed to the amendment of the gentleman from Douglas.

On motion by Mr. BURNETT, the amendments were laid on the table—affirmative 17, negative 16.

Mr. INGALLS offered as an amendment, the following:

Insert after "law" in line 22:

"*Provided*, That no person shall ever receive the benefits of this provision on more than one tract of land."

Mr. INGALLS. Mr. Chairman, I offer this amendment, believing that it recognizes a principle of security for the home, which will favorably affect the agricultural interest. I might object to the section as it now stands, as being subject to a false construction; for it provides that the land shall be exempted from forced sale under any process of law, and yet, at the same time it provides that it may be alienated by the joint consent of the husband and wife. The object of my amendment is to prevent the sale of the homestead and investing the proceeds in any other piece of land, and so far preventing alienation by confining the exemption to one piece of land.

On motion by Mr. HUTCHINSON, the amendment was laid on the table.

Mr. McDOWELL. Mr. Chairman, in the 21st line are these words: "belonging to any one family." I desire to ask the Chairman of the Committee that made this report, whether he intended the title should rest jointly in all the members of the family, or whether [he] intended it should vest in the head of the family, or any single member thereof? I think there is ambiguity or uncertainty here, and that the clause should be made more definite and specific. It seems to me that it should belong to the family, and not to any "one" of the family.

Mr. HOUSTON. Mr. Chairman, I do not know that the attention of the committee was called to that. We do not claim the honor of originating the section. I believe it is borrowed from the Leavenworth or the Ohio Constitution. I voted for the amendment of the gentleman from Shawnee —to make it the head of the family. I confess that perhaps I do not precisely understand the legal force and effect of the language employed, and I am glad that the attention of members has been called to it.

Mr. J. BLOOD. Mr. Chairman, I move to amend the section by striking out the words "not exceeding two thousand dollars in value."

Mr. THACHER. Mr. Chairman, I move to strike out the words "by law," so that it will read: "shall be exempt from forced sale under any process of law." If these words are retained the clause goes upon the supposition that the Legislature must proceed to pass a law whereby the homestead shall be exempted—whereas we are making a positive provision here to that effect.

[*222] *The motion was agreed to and the words were stricken out.

Mr. GREER proposed to amend further by striking out the words "belonging to one family" and inserting the words "to be selected by the owner thereof."

Mr. PRESIDENT WINCHELL. Mr. Chairman, it appears to me that the words "belonging to any one family" cannot strengthen the security we desire here. I cannot conceive how a homestead of one hundred and sixty acres can belong to the faction of a family.

Mr. J. BLOOD. Mr. Chairman, I move to amend the amendment by striking out the words "to be selected by the owner thereof."

The amendment to the amendment was agreed to, and so the section as amended was passed.

On motion by Mr. BLUNT the committee now rose, and the Chairman reported the Article with these several amendments to the Convention, recommending their adoption.

On motion by Mr. SLOUGH, the Article and amendments were taken up.

The amendment to the first section (Mr. Kingman's) was read, viz:

"The people have at all times a right to change, alter or modify their Constitution, or form of government, in any manner they shall see proper."

Mr. STINSON. Mr. President, I move to strike that out.

Mr. HOUSTON. Mr. President, what would be the effect of a provision of this sort upon that other provision in this Article providing for a particular mode and manner of amendment to the Constitution? Here it is said that the people may change, alter or amend their Constitution whenever and however they please. I would be glad to hear gentlemen explain how these would harmonize.

The motion was agreed to, and the matter was stricken out.

The first section was then read, as originally reported.

Mr. McDOWELL. Mr. President, I move to strike out "one newspaper" and insert "two newspapers."

Mr. THACHER. How would the gentleman get two newspapers when there are not two newspapers published in the county?

There was no second.

On motion by Mr. KINGMAN, "ayes and noes" were changed to "yeas and nays" by unanimous consent.

Mr. BLUNT made an ineffectual motion to strike out "two-thirds," in the phrase of "two-thirds of all the members elected to each House," and insert the word "majority" in lieu.

The section was then passed.

Section 2 was read and passed as reported.

The homestead section was then read, as amended, and the yeas and nays were demanded on its adoption.

Mr. GRIFFITH. Mr. President, I wish to know what will be the effect of the clause introduced by the gentleman from Douglas (Mr. J. Blood) in these words: "which shall be selected by the owner thereof?" Is it that the owner shall make his selection and have it recorded? I rise simply to inquire of those who understand the legal force of this language. I do not pretend to be a lawyer.

Mr. WRIGLEY. Mr. President, the yeas and nays having been called upon the adoption of this section, I desire to say that I shall vote against it: and I desire to offer a few reasons why I shall vote against it. But I do not believe that the members of this Convention have been selected for the purpose of legislating for the people of Kansas. And while I perfectly accord the right of exemption, and while I believe it is the intention and desire of the people to have a constitutional provision of this kind, yet, for my part—and I speak only for myself—I have no hesitation in entering my protest against it. I have no doubt but that, temporarily, it will be a popular measure. But I am one of those who believe that the members of this Convention occupy a position which should [*223] *not be affected by any mere feeling of temporary, popular excitement. We should confine ourselves to the duties devolved upon us. We should not wander away from our duties, but strictly discharge them. As I said before, I do not understand that the members of this Convention are called upon to legislate for the people of Kansas. I think it would be just as proper for this Convention to pass any other act of legislation, as to pass this homestead—just as proper for them to go on and enact the whole code of civil procedure. There is nothing in the whole range of legislation that we might not enact as well as this; and therefore I oppose it. And while I believe that it is within the province of the Convention to lay down the general principles of government, prescribing and restricting the powers of legislation, I do not believe it is our duty, or our right, to go into the minutiae of legislation. I oppose this proposition, because—while I believe it is quite popular among the people, I am willing to go before the people and defend the position upon which I stand. For I wish to be distinctly understood, that I am not opposed to a reasonable exemption against execution for the collection of debts. I am not opposed to securing to every *bona fide* householder a home for his family, which the shylocks cannot reach. Yet I am opposed to any such law which shall not be equal and uniform in its operation—which is passed for the benefit of one class of men more than another. Here, sir, you have one hundred and sixty acres of land exempted from execution. And while I agree with

the gentleman from Douglas (Mr. J. Blood) in the exposition he has made, and while I concur in the amendment he has attached,—still, it was of no importance, as I conceive, whether this amendment were attached or not; for I deny the right of this Convention to say to any citizen of Kansas that he shall not be left to his freedom of choice in such a case; and I say, if the amendment had not been adopted, and the section were to pass without it, it would only constitute an indication that this Constitutional Convention were attempting to do what it was not in their power to do.

But again: you give to every family one hundred and sixty acres. I believe it would have been far better to have given it to every resident householder, as proposed in my substitute which was rejected; and although I do not expect to change the views of members now, I desire to place myself right upon this record, out of which gentlemen seem to be disposed to make political capital. "Resident householder" has a well defined meaning. It may refer to a man or a woman, married or single, with or without a family. But it will be very difficult to decide who will be entitled to hold the homestead under this section. Gentlemen say they are willing to leave that to the Courts. Very well. But I am opposed to this section upon principle. I oppose it because I believe that no such homestead ought to be adopted. I believe that every man ought to pay his honest debts. But whilst I admit that, I think that the law ought to shield every man and his family from the rigor of creditors to the extent of exempting from execution a reasonable amount of land, or a reasonable amount of personal property—and I also think that this is within the province of legislation and constitutional enactment. But to pass a provision like that before us, would be almost in derogation of that fundamental principle that laws shall not be passed to destroy the obligations of contracts; for when you take away the means of the collection of debts, you, in effect, destroy the obligations of contracts. I am satisfied that the people of Kansas will see the time when it will be necessary to change this. One of its effects will be to ruin our credit abroad. It will also prevent the use of foreign capital in our State. If the object had been to destroy entirely the credit of all the people, it could not have been more effectually accomplished. And whilst I admit the [*224] *credit system has been frequently and greatly abused, and that it requires legal safeguards, still it is of great benefit to the people. But I am opposed to this provision because it is not uniform in its operation. You give every man a homestead of one hundred and sixty acres, with all improvements—it matters not how great is their value. It may be situated adjoining Leavenworth, Lawrence, Wyandotte, or any other city, and it may have the value of ten, fifteen, twenty, or even fifty thousand dollars, still it will be all exempt from execution. Such a property, sir, could hardly belong to an oppressed cultivator of the soil; whilst many a homestead of one hundred and sixty acres, in the hands of the really poor, would not be worth more than five hundred dollars. I say, sir, that a homestead law should be uniform in its operation, and because this section is not, I have opposed it and shall vote against it.

Mr. J. BLOOD. Mr. President, I am anxious that this section should be made as perfect as it can be done by the Convention. The words inserted by myself at that time—"to be selected by the owners thereof"—were hastily proposed; and upon consideration, it seems to me that they are justly objectionable. I propose now, therefore, to strike them out and insert in lieu thereof the words "owned and occupied by any resident of this State."

The amendment was adopted.

Mr. INGALLS moved to insert the words "not to exceed twenty thousand dollars in value."

Mr. BURNETT proposed "two thousand."

These were laid on the table.

Mr. MCDOWELL. Mr. President, whilst I approve the great principle of exempting the homestead, I cannot endorse the section as reported, and as it now stands. I think, sir, that we are legislating too much in the Constitution, and that this whole matter belongs to the Legislature. Believing that the Legislature is the proper body to pass upon this matter; and believing that the section before us is unjust and partial in its character, I propose the following substitute for the section, which I will read, by the permission of the Convention:

"The Legislature shall provide by law for the exemption of a homestead in favor of every head of a family from forced sale, except sales upon mechanics' liens, mortgages, or other liens for the purchase money, and sales for nonpayment of taxes; such homestead not to exceed two thousand dollars in value."

Mr. INGALLS. Mr. President, I wish to strike out the words "belonging to any head of a family," and insert "belonging to any resident householder."

Mr. GRIFFITH. Mr. President, I wish to make a single remark. Every amendment from the other side seems to be intended to defeat the great principle, that the woman, the wife and mother, shall have control of the home. I hope that the Convention will be careful that the homestead clause here shall recognize this right clearly.

Mr. MCDOWELL. Mr. President, the gentleman, perhaps, misunderstands the definition of the phrase "head of a family." The Courts in the State of Ohio have decided that their homestead provision which contains this phrase, applies as well to the woman as to the man. I am willing, however, that the word "woman" should be inserted. Of course there is no intention to exclude the woman, for that would destroy the object.

Mr. BURNETT. I move to lay the amendment on the table.

Mr. SLOUGH demanded the yeas and nays, and the same being seconded, ordered and taken, resulted—yeas 26, nays 22—as follows:

[*225] *YEAS—Messrs. Burnett, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hutchinson, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Palmer, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams—26.

NAYS—Messrs. Arthur, Blunt, Brown, Barton, Foster, Forman, Greer, Hipple, Hubbard, Hanway, Hoffman, Moore, McDowell, McCune, McClelland, Parks, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—22.

So the substitute was rejected and the question recurring on the adoption of the section—

Mr. THACHER demanded the yeas and nays.

Mr. BLUNT. Mr. President, I merely wish to state briefly the reason of the vote I am about to give upon this proposition, which seems to create considerable feeling. While I am willing and anxious that a certain amount of property should be exempt from forced sale; and while I am anxious that the benefits accruing—that this exemption shall extend to all classes

of persons; and I have made an effort to secure such a provision in this Constitution—yet the proposition now before us, on which the vote is to be taken, goes farther in the way of exemption than we are warranted in going, and consequently I shall be under the necessity of voting against it.

The yeas and nays being ordered and taken on the adoption of the section as amended, the result was—yeas 28, nays 21—as follows:

YEAS—Messrs. Burnett, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hoffman, Houston, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Palmer, Ritchie, Ross, Signor, Stokes, Simpson, Townsend, Thacher, Williams, Mr. President—28.

NAYS—Messrs. Arthur, Blunt, Brown, Barton, Foster, Forman, Hipple, Hubbard, Hanway, Ingalls, Moore, McDowell, McCune, McClelland, Parks, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—21.

Mr. INGALLS and others submitted under the rule the following explanation:

"We vote against the section because, though we are strongly in favor of the widest and most liberal protection to the agricultural interest and honor of Kansas, we believe its provisions are unjust, invidious, and open to fraudulent construction.

JAS. G. BLUNT, J. J. INGALLS,
JNO. P. SLOUGH, J. M. ARTHUR,
S. A. STINSON."

Mr. WRIGLEY. Mr. President, is this the time to present the explanation of a vote?

The PRESIDENT. Under the 18th rule, the Chair does not feel at liberty to permit reasons to be entered upon the Journal after the roll-call has been commenced.

However—

Mr. WRIGLEY presented the following, which was admitted to record under the rule:

"We vote against this section because its passage is calculated to utterly destroy the credit of the citizens of Kansas, and the law is not uniform in its operation.

C. B. MCCLELLAND, E. MOORE,
J. W. FORMAN, BENJ. WRIGLEY,
J. T. BARTON, S. HIPPLE,
F. M. HUBBARD, F. BROWN,
J. STIARWALT."

Mr. STOKES offered as an additional section the following:

"SEC. 3. The right of suffrage shall be extended to females upon the following conditions: The Legislature may, at any regular session, provide for submitting the question of female suffrage, and all persons twenty-one years of age, and over, who have resided in the State six months previous to such election, shall be allowed to vote. Ballots shall be prepared with the words "For female suffrage" and "Against female suffrage," and if a majority of all the votes cast shall be "For female suffrage," then at all future elections there shall be no distinction in the qualifications of electors on account of sex."

[*226] *Mr. SLOUGH moved to lay it on the table.

The motion was agreed to.

Mr. MCDOWELL. Mr. President, I suppose that under the head of "Miscellaneous" a section including negroes and mulattoes from the future

State of Kansas would be properly embraced. I therefore offer the following as an additional section:

"No negro or mulatto shall come into or settle in this State after the adoption of this Constitution."

Mr. RITCHIE moved to lay it on the table.

The yeas and nays being demanded, ordered and taken thereon, resulted—yeas 28, nays 20—as follows:

YEAS—Messrs. Arthur, Burnett, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Palmer, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend and Williams—28.

NAYS—Messrs. Blunt, Brown, Barton, Burris, Foster, Forman, Hipple, Hubbard, Moore, McDowell, McCune, McClelland, Parks, Porter, Slough, Stinson, Stiarwalt, J. Wright, Wrigley and T. S. Wright—29.

Mr. BLUNT submitted the following, under the rule:

Mr. BLUNT. Mr. President, I shall vote against laying the proposition of the gentleman from Leavenworth (Mr. McDowell) on the table, not because I am in favor of incorporating such a provision in the body of the Constitution, or because I am in favor of the so-called "black law," but simply because I think a majority of the people of Kansas—comprising both those for, and against negro exclusion—expect some action of this body relative to this matter, and I believe that it has been generally understood that a distinct proposition would be submitted to the people, by a separate ballot, whether they would, or would not, exclude free negroes from the State, and notwithstanding I am opposed, as much as any one, to the principles of a "black law" as being cruel, unchristian and inhuman, yet I am willing to submit the question to the people for them to pass upon by a direct vote, thereby giving every one a fair opportunity to express his will, and let the majority govern. And being as ready now, as at any other time, to meet this question, and to dispose of it in such a manner as I think the people demand, I shall therefore vote against laying on the table.

So the section proposed was laid on the table.

On motion by Mr. THACHER, the article as amended was ordered to be printed, and referred to committee on Phraseology and Arrangement.

Mr. HUTCHINSON. Mr. President, there is a provision in the Leavenworth Constitution which I think it proper to have inserted in this article.

The PRESIDENT. It is not in order now.

FINANCE AND TAXATION.

On motion by Mr. THACHER, the Convention proceeded now to the consideration of the article reported this morning from the committee on Finance and Taxation.

Section 1 having been read by the Secretary, viz:

"SECTION 1. The Legislature shall provide by law for a uniform and equal rate of assessment and taxation, and taxes shall be levied in such manner as the Legislature shall prescribe; but all property appropriated and used exclusively for State, County, Municipal, Literary, Educational, Scientific and Religious purposes, and two hundred dollars for each head of a family, shall be exempted from taxation."

Mr. STIARWALT proposed to strike out the word "and" before "religious," and after "religious" insert "benevolent and charitable."

The motion was agreed to.

Mr. HOUSTON submitted the following clause to come in at the end of the section:

[*227] "Also the real estate and personal property *of widow ladies, deprived of the right of the elective franchise."

Mr. SLOUGH. I move to lay the amendment on the table.

Mr. HOUSTON. I wish to ask the gentleman to withdraw his motion for a moment.

Mr. SLOUGH adhered to his motion, and the yeas and nays being demanded and taken thereon, resulted—yeas 28, nays 20—as follows:

YEAS—Messrs. Brown, Barton, Burris, Foster, Forman, Graham, Greer, Hipple, Hubbard, Hoffman, Ingalls, Kingman, Lillie, Moore, McDowell, McCune, McClelland, Palmer, Porter, Ross, Signor, Slough, Stinson, Stiarwalt, Simpson, J. Wright, Wrigley, T. S. Wright—28.

NAYS—Messrs. Arthur, Burnett, Blunt, J. Blood, N. C. Blood, Crocker, Dutton, Griffith, Hutchinson, Hanway, Houston, Lamb, Middleton, McCullough, Preston, Ritchie, Thacher, Townsend, Williams—20.

So the amendment was laid on the table.

Mr. MCDOWELL. Mr. President, I desire to add these words: "but the Legislature shall never levy a poll tax for county or State purposes;" and I would add a little more if the Convention will give me a moment to write.

Mr. GRIFFITH. Mr. President, is that not provided for in the Legislative article?

Mr. MCDOWELL. I do not think it is.

Mr. N. C. BLOOD. Mr. President, in behalf of the committee on the Legislative department, I would say that it was included in their report.

Mr. MCDOWELL. Then I withdraw the amendment.

So the first section was passed.

Section 2 being read, viz:

"2. The Legislature shall provide by law for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects, or dues of every description (without deduction), of all banks now existing or hereafter to be created, and of all bankers, so that all property employed in banking shall always bear a burden of taxation equal to that imposed upon the property of individuals—"

Mr. HOFFMAN moved to strike out the entire section, and offered as a substitute these words:

"The credit of the State shall never be given or loaned in aid of any individual, association or corporation."

Mr. STINSON. Mr. President, I desire to know whether this has not been provided for in another report? I think the gentleman is mistaken. I do think it is provided for, and I know it was under consideration in committee for a considerable time, and was discussed at considerable length; and we all agreed, with the exception of the gentleman from Woodson (Mr. Hoffman) on this section, which I consider essential to the report.

The amendment was rejected.

Mr. HUTCHINSON. I move to strike out the words "without deduction," included within the parentheses.

Mr. STINSON. Mr. President, the object in inserting these words was this: we desire that all property held by banks and corporations in this

State shall be taxed, no matter whether they are in debt or not. We regarded it as very important that our banking institutions should be taxed without deduction on account of debt. Whatever property bankers may have in the State and do business upon, should be taxed. We have a legitimate right to tax them, and all property should be equally taxed.

Mr. HUTCHINSON. Mr. President; I think, from the fact that corporations have no souls, they should not be therefore made worse off than individuals; and no man will deny the reasonableness of the rule for making a reasonable deduction in the amount of taxables on account of debts owing by individuals. I think bankers should have the same right.

The motion to strike out was rejected, and so the section was adopted.

Sections 3 and 4 were read and adopted without amendment, as follows:

[*228] *"3. The Legislature shall provide for raising revenue sufficient to defray the current expenses of the State for each year.

4. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same; to which object only such tax shall be applied."

Section 5 being read, viz:

"5. For the purpose of defraying extraordinary expenses and making public improvements, the State may contract public debts; but such debts shall never, in the aggregate, exceed one million dollars, except as hereinafter provided. Every such debt shall be authorized by law for some purpose specified therein, and the vote of a majority of all the members elected to each house, to be taken by the yeas and nays, shall be necessary to the passage of such law, and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and for the payment, when it shall become due, of the principal thereof; and shall specially appropriate the proceeds of such taxes to the payment of such interest and principal; and such appropriation shall not be repealed nor the taxes be postponed or diminished until the interest and principal of such debt shall have been wholly paid."

Mr. BURRIS. Mr. President, I move to strike out the words "one million" in the 17th line, and insert the words "five hundred thousand." I observe that in the next section it is provided that a sum larger than that may be created by a vote of the people. While I approve of the principle of obtaining the sense of the people upon the propriety of creating a debt, it seems to me best that the Legislature should not be authorized to run the State in debt, without the authority of the people, to a greater amount than half a million. It seems to me that would be as great an amount as would be necessary for the Legislature to run the State in debt. By the first Iowa Constitution the Legislature was restricted to fifty thousand dollars, and they got along very well under that provision.

Mr. STINSON. Mr. President, we had this matter under consideration in committee, and concluded to insert this amount as the least we could get along with, and carry on our contemplated public improvements. I admit that, for the ordinary expenses of the State, five hundred thousand dollars would be amply sufficient. But I do not agree with the gentleman as to the appropriateness of his comparison of Kansas with the State of Iowa. We are quite a different State. We have no public improvements, no State house, no penitentiary, none of the public buildings that will become essential upon our State organization. I desire to say distinctly that the tax which should be paid for these institutions should not be put indirectly upon the people, for there are other taxes, as for school and road pur-

poses, that will burden the people as much as they will be able to bear. I am not afraid of duty. I do not believe that it rests upon the people rightfully, who have come here and undergone the hardships of pioneer life, to build up the public buildings which are to inure as much to the benefit of posterity as to themselves. The committee thought they acted moderately and economically. I would rather vote to increase it, than vote for any diminution of the amount.

Mr. GRIFFITH. Mr. President, there is no danger in passing this, for we have prescribed that the Legislature shall provide an annual tax sufficient to pay the accruing interest and principal on any debt which they may contract. That is a sufficient guarantee that we shall never have a large public debt. The representatives of the people will be very careful, and no debt will be likely to be contracted unless in case of absolute necessity. I think that guarantee is sufficient, and that we might allow the limit to remain at one million. If gentlemen will guard this provision properly, [*229] they need have no fear of a public debt, un*less it should be absolutely necessary for the public good.

The amendment was rejected, and then the section was passed without amendment.

Section 6 being read—viz:

"6. No debts shall be contracted by the State except as herein elsewhere provided, unless the proposed law for creating such debt shall be first submitted to a direct vote of the electors of this State at some general election, and if said proposed law shall be ratified by a majority of all the votes cast at such general election, then it shall be the duty of the Legislature next after such election to enact said law and create such debt, subject to all the provisions and restrictions provided in the preceding sections of this article—"

Mr. BURRIS. Mr. President, I wish to make an inquiry. Would not the last clause here restrict the Legislature to the million of dollars again?

The section was adopted without amendment.

Section 7 being read—

"7. The State may also borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or to the repayment of the debt thereby created—"

On motion of Mr. GRIFFITH, the word "also" was stricken out.

And so the report was passed.

Mr. HOFFMAN offered the following, as an additional section:

"SEC. 8. The State shall never be a party in constructing and carrying on any works of internal improvement; but whenever grants of land or other property shall have been made to the State for particular works of internal improvement, the State shall devote thereto the avails of such grants, and may pledge the revenues derived from such works in aid of their completion."

Mr. PARKS proposed to amend so as to read as follows:

"SEC. 8. The State shall never contract any debt for works of internal improvement, or be a party in carrying on such works."

Mr. STINSON proposed to strike out and insert in place of the last words, the following:

"And shall never be a party to carrying on works of public improvement."

Mr. STINSON. It seems to me, Mr. President, that every safeguard that could be desired has already been thrown about the power of the Legislature to contract a public debt for the future State. And gentlemen who propose these additional sections in regard to works of public improvement, seem to wish to hamper not merely the Legislature but also the people. I think that it would be necessary to prescribe that a majority of the people shall first declare in favor of a State debt; and I do not want to restrain the people even in the matter of contracting debts, nor in any other legitimate control of their own interests. Nor do I think it important to say that it will not be to the interest of the State to loan its credit for purposes of internal improvement. Suppose several millions of acres of land were granted to the State of Kansas for the purpose of carrying on great works of internal improvement, it seems to me that frequently cases might arise wherein the State should advance money for these works, and take land for security, rather than give them up to the mismanagement of companies, or perhaps sacrifice them altogether by throwing them into the hands of speculators. For if the lands go into the hands of the companies, they will be compelled to go on with forced sales, thereby keeping the lands out of the hands of the actual settlers. If we should have, say, four hundred millions of acres of land granted to the State, I would be in favor of having a State pre-emption law for settlers, in which the State should be made liable for the settlers' payment for their [*230] lands—taking the *land for security. But now, by this provision, this matter is not in the hands of the Legislature, but the people. It is carefully and industriously guarded, and any attempt to restrict the people in the exercise of this right is to legislate against the people, and not to throw a safeguard around their representatives.

Mr. PARKS. Mr. President, the theory of the gentleman may be very fine, but his theory in the practice of other States has worked very badly for the people. I refer particularly to the State of Indiana, which many years ago went into a system of internal improvements, from which they have scarcely yet recovered. It is this working of the principle of an unlimited public debt that I wish to cut off.

Mr. MCDOWELL. I move that the Convention now adjourn.

Mr. BLUNT. Till to-morrow.

And, accordingly, the Convention adjourned till to-morrow morning 8 o'clock.

WEDNESDAY, July 20, 1859.

The Convention met at 8 o'clock, A. M.

Prayer by the Chaplain.

The Journal of yesterday was read and authenticated.

Mr. THACHER, from the committee on the Legislative Department, returned the petition from sundry citizens of Johnson, Douglas and Shawnee counties, without recommendation, stating that the Convention had already acted upon the matter.

On motion by Mr. SLOUGH, it was ordered to be placed on the files of the Convention.

ORDER OF BUSINESS.

Mr. INGALLS, in behalf of the committee on Phraseology and Arrangement, stated that several Articles which had been referred to them and

ordered to be printed, were still in the hands of the printer—supposing that it would require the action of the Convention.

Mr. McDOWELL. I move that the committee get their printing done wherever they can.

Mr. THACHER. Mr. President, would it not be better for the committee to make their corrections before the matter goes to the printer?

Mr. McDOWELL. Mr. President, before I could answer that, I would have to ask the question as to the effect of committing a report to that committee. As I understand it, when they make their report on any particular Article, that Article is again before the Convention—it is in the power of the Convention, as on the second reading of a Bill—to report generally just as we act upon any committee report. If I am wrong, then the Article might be printed after the engrossment, but if I am right it would be doing double work to have the engrossment and printing take place now.

The PRESIDENT. The Chair would state that he has been himself somewhat perplexed with this question. The regular precedent with regard to the three different readings have not been followed in this Convention as required in a legislative body, where the order of the introduction, second reading and amendment of bills and the third reading, has to be followed. After reflection upon the subject the Chair is of opinion that it is entirely competent for the Convention to make any amendment in any Article reported from the committee on Phraseology and Arrangement by re-considering the action of the Convention on that Article, and then amending it if desirable. Hence, the decision would be, that any Article which shall be returned from the committee on Phraseology and Arrangement will be open for amendment upon being reconsidered.

Mr. THACHER. Mr. President, it seems to me that the prospect is, that we shall sit here all summer under that rule.

The PRESIDENT. The Chair will state further that it is entirely competent for the Convention to make any new rule, or change any of the existing rules for its government. If the Convention deem it expedient, they can make their action a finality before the article goes to the committee on Phraseology and Arrangement.

[*231] *Mr. THACHER. Mr. President, I would suggest that they might, if the Article has been considered in committee of the whole and in Convention. I would ask whether or no, in point of fact, we do not give two readings to all these Articles?

The PRESIDENT. The Chair understands that two readings of a bill must be had independent of any action of the committee of the whole in ordinary legislation, but certainly no such rule has been followed here.

Mr. KINGMAN. Mr. President, as one of the committee on Phraseology and Arrangement, I would state, that the plan suggested by the gentleman from Douglas (Mr. Thacher) had been in my own mind. And then, again, it is a nice matter, sir, to consider what is the precise distinction between a change in Phraseology and a change in the sense. Of course the committee would not like to become responsible for changing the sense. They wish the reports, as adopted by the Convention, to come into their hands printed, and then they will be better able to judge of the phraseology.

Mr. SLOUGH. Mr. President, it is a well settled principle of parliamentary usage that where any matter pending is re-committed and re-

ported back, it comes before the body *de novo;* that whatever amendments may have been made or referred to the committee and reported back by the committee, became matter to be passed upon again; and, to my mind, the purpose of a motion for reference to the committee on Phraseology is, that the committee might report any amendment they may see proper—which matter the Convention will consider and pass upon as any other matter. It seems to me, it would be competent for that committee to make any change they may think proper; and then if the Convention does not consider the change favorably, we do not tie up our hands so that we cannot make the necessary amendments.

The PRESIDENT. The Chair regards the committee on Phraseology and Arrangement as being different from other committees. By the reference of an Article to the committee it is not designed that they are to change the sense—their sole and exclusive office being to render the matter of the Article in distinct and plain language, and to see that the several parts are homogeneous in character. It does not follow, in the opinion of the Chair, that every principle in the Article reported by them is to be re-opened for discussion. In the opinion of the Chair that is not contemplated in a motion to reconsider.

Mr. THACHER. Mr. President, I agree with the Chair, for if the report is to be taken up *de novo,* we shall get the work of Sysipheus before us. There will be no point at which we may stop. I have it in my mind to submit an order for raising a committee of two or three for the purpose of reporting to the Convention a rule on this very subject. And if it is in order now, I move that a committee of three be appointed by the President to report to the Convention some recommendation for a decision here. For if we are to re-open a report every time it shall come from the committee on Phraseology, we shall never get through.

The PRESIDENT. The Chair is of opinion the motion is not in order.

Mr. GREER. I am under the necessity of asking the indulgence of the Convention for further time for the submission of the report from the committee on the Executive Department. Their report has been in the hands of the printer some ten days and I have been in the office several times after it, and have been several times told that it would be ready at a particular time. One of those times has expired this morning, and still the report is not yet ready. I have done everything I could to get it, and I am told and believe, that the printer is disposed to do it as speedily as possible.

Mr. MCDOWELL. I move that the committee on Printing be instructed [*232] to have the printing *done at some office where it can be done with the necessary dispatch.

The motion was agreed to.

Mr. ROSS. Mr. President, I should state, perhaps, that the committee on Printing have already made the best arrangements they possibly could for the execution of the printing of the Convention.

The PRESIDENT. The resolution can do no harm.

AMENDMENT OF THE RULES.

Mr. HIPPLE (the rules having been suspended for this purpose). Mr. President, I move to amend the 18th rule by adding these words: "But may give notice of his intention to enter upon the Journal the reason for his vote." I think it nothing more than a right which every member has, to enter the reasons for his vote. Now we have to ask leave.

PERSONAL EXPLANATION.

Mr. BLUNT. Mr. President, I rise to a question of privilege. In the Kansas City *Journal of Commerce,* of July 17th, to whose Reporter has been extended the courtesy of a seat and privilege within the Bar of the Convention—I am represented as having stated that I was opposed to the annexation of the southern portion of Nebraska Territory, because it might give to the Democratic party the ascendency in the future State. I think, sir, that the Convention will recollect that I made no such statement—took no such position in the debate—but that I actually disclaimed having any knowledge of how that proposed annexation might affect the political character of the future State. Supposing this statement to have been a mere error of the reporter for that paper, I called his attention to it—pointing out the error and restating to him distinctly the points I made in the debate—and of course expecting him to make the necessary correction. But in the issue of that paper of yesterday morning, I see that he not only refuses to make the correction, but claims that the position in which he placed me on the 17th was correct. And further, in his issue of yesterday morning, referring to this matter, he seems to hold out the idea that I wished to recede from the position I took, offering certain reasons therefor. I went to him a second time yesterday, and he still refused to make the correction—pretending that his report was correct, and referring me to the official reporter for confirmation—alleging that that gentleman would sustain his report. I asked him if he had seen the official report. He said he had not, but that the official reporter had told him his report was just. I then called on the official reporter, and he examined his notes and found me correct in the statement I have made, and that this paper's report of my remarks is incorrect. The official reporter very kindly consented to write out my remarks on the boundary question; and I have them now before me to substantiate the statements I made. I think, Mr. President, when we admit a reporter for the press inside the bar, to report the proceedings of the body, if he commits one error, and refuses to correct that error, he abuses the privilege of the House. The Convention will recollect, that about the time of the convening of this body, it was stated in this paper, that they had employed the only reporter in the Convention to furnish their reports, and therefore any person who wished correct reports of these proceedings should provide themselves with their paper. I do not wish to say, that this reporter has purposely misrepresented me, but his refusing to correct the error would seem to imply that. But I do say, if he is the only competent and correct reporter in this Convention—taking his reports before us as evidence of his competency, it must be that the profession is very poorly represented in this body.

The PRESIDENT. Does the gentleman make any motion?

Mr. BLUNT. I make no motion. I merely call attention to the fact of an abuse of privilege.

[*233] *FINANCE AND TAXATION.

The PRESIDENT. The regular order of business having been passed through, the Convention will proceed with the unfinished business of yesterday—the consideration of the Article reported from the committee on Finance and Taxation, as amended in committee of the whole. The question is on the passage of the seventh section.

Mr. SLOUGH. That section has been adopted.

Mr. McDOWELL. If I recollect the position of the report, the Convention, when it adjourned, was considering an amendment by my colleague, Judge Parks.

The Secretary reported the condition of the question at the time of the adjournment to be as follows:

Mr. HOFFMAN had offered the following section, to be added to the article:

"SEC. 8. The State shall never be a party in constructing and carrying on any works of internal improvement, and whenever grants of land or other property shall have been made to this State for particular works of internal improvement, the State shall donate thereto the avails of such grants, and may pledge the revenues derived from such works in aid of their completion."

And then—

Mr. PARKS had proposed to amend the amendment, so as to read as follows:

"SEC. 8. The State shall never contract any debt for works of internal improvement, or be a party in carrying on such works."

Mr. STINSON. My recollection is, that Judge Parks' proposition was introduced as a substitute for the section proposed by the gentleman from Woodson (Mr. Hoffman), and that I offered an amendment to the former, to strike out and insert, so as to make it read: "The State shall never be a party to carrying on works of public improvement."

Mr. THACHER. Mr. President, if it is in order to amend the proposition of the gentleman from Woodson, I think the word "particular" ought to be stricken out.

The PRESIDENT. In the opinion of the Chair, the amendment of the gentleman from Leavenworth (Mr. Stinson), being a substitute for the whole, ought to be considered first.

Mr. STINSON's substitute was adopted on a division—affirmative 25, negative 13—and so the section, as amended, was adopted into the article.

Mr. HUTCHINSON. I desire to reconsider the vote just taken, for amendment to this effect: "That the State shall not lend its credit to individuals nor to corporations."

On motion by Mr. STINSON, it was laid on the table.

Mr. SLOUGH. I move now to refer the article to the committee on arrangement and phraseology, and to print.

Mr. McDOWELL. Before that question is taken I desire to add another proposition. I have mislaid it, but the substance of it is: "That the State Legislature shall never levy a poll tax."

Mr. STINSON. Mr. President, I propose to amend that, by adding these words: "for County or State purposes."

Mr. HOUSTON. Mr. President, I cannot see any reason why we should deprive ourselves of the power of collecting from individuals a poll-tax of one or two dollars a head. I know there is a clause in some Constitutions, that a poll-tax is grievous and oppressive. I opine, however, that it is not the tax, but circumstances, that make it grievous and oppressive. Its payment might be made a condition of the right of suffrage; and in such a case, it would be oppressive. But Kansas is filling up with young men—carpet-sack men—coming in to avail themselves of the advantages of our government. Is it right that our government should protect them, without

their paying a cent for that protection? I see nothing improper in allowing the Legislature to levy a poll-tax, in order to reach them. They have [*234] the protection of government, and why should they not *assist in paying the expenses of government? I see nothing unequal in a poll-tax. I see no propriety in throwing the proposed restriction around the legislative power. I know that a poll-tax was advantageous in the State of Iowa.

Mr. McDOWELL. Mr. President, I believe that political economists agree that the basis of all taxation should be property. I think we have acted upon that principle in the report which we have just passed upon. I think this is the true basis, and that we should not adopt any other. The gentleman alludes to a class of persons that come into the Territory with carpet-sacks, and proposes to levy a tax on them of one or two dollars a head. Why, sir, if these carpet-sack men have any property above what is exempt from taxes, they will be taxed, and their property will stand sponsor for its payment. Otherwise, you cannot collect your tax. The only mode of collecting taxes is to pursue property.

Mr. HOUSTON. Mr. President, the only object was that the power should not be cut off for levying a tax for road purposes, &c.

Mr. THACHER. Mr. President, I think it no more than just that every man should contribute toward the support of government. My own view is, that we had better say nothing about a poll-tax. But if we must have proceedings on the subject, I shall vote first for the amendment of the gentleman from Leavenworth, and then against the whole thing.

The substitute was adopted, and then—

On motion by Mr. THACHER, the subject was laid on the table.

On motion by Mr. SLOUGH, the article on finance and taxation, as amended, was now referred to the committee on phraseology and arrangement, and ordered to be printed.

SELECT COMMITTEE ON BUSINESS.

Mr. THACHER moved that a committee of three be appointed to report to the Convention what action it ought to take with the report of the committee on phraseology and arrangement.

The motion was agreed to, and under that order—

The President appointed Messrs. Thacher, Slough and Kingman.

MISCELLANEOUS.

On motion by Mr. HUTCHINSON, for the purpose of further consideration of the Homestead section, it was—

Ordered, That the first report from the committee on Miscellaneous, be recalled from the committee on Phraseology and Arrangement.

The PRESIDENT. The Chair would suggest, that the second report of the committee on Miscellaneous matter, has been ready some time, and it would be competent for the Convention to take it up,—but the report is not yet printed.

Mr. THACHER. I would inquire of the Chair if the report of the article on the Executive Department is here?

The PRESIDENT. The Chair is informed that it will be here in half an hour.

Mr. SLOUGH. I move that the rule requiring the printing of reports before action upon them be suspended, for the purpose of enabling the

Convention to take up the second report of the committee on Amendments and Miscellaneous.

The motion was agreed to.

On motion by Mr. THACHER, the Convention then resolved into committee of the whole—Mr. Barton in the Chair—and took up the consideration of said report in the article on Amendments and Miscellaneous.

On motion by Mr. SLOUGH, it was considered by sections.

The Secretary read the first and second sections, viz:

"SEC. 1. All officers whose election or appointment is not otherwise provided for in this Constitution, shall be chosen or appointed in such manner as may be prescribed by law.

SEC. 2. When the duration of any office is not provided for by this Constitution, it may be declared by law; and if not so declared such [*235] office shall be held during the pleasure of the *authority making the appointment. But the Legislature shall not create any office the tenure of which shall be longer than four years."

They were adopted, without amendment.

Section 3 was read by the Secretary, viz:

"SEC. 3. Lotteries and the sale of lottery tickets for any purpose whatever, shall forever be prohibited in this State."

Mr. SLOUGH. Has not that been provided for in the article on the Legislative Department?

Mr. THACHER. It is provided, that the Legislature shall not charter any lottery. This would prevent the sale of lottery tickets from Georgia, Delaware, &c.

Sections 4, 5, 6, were then severally read and adopted, viz:

"SEC. 4. The printing of the laws, journals, bills, legislative documents and papers for each branch of the General Assembly, with the printing required for the Executive and other departments of State, shall be let, on contract, to the lowest responsible bidder, by such executive officers, and in such manner as shall be prescribed by law.

SEC. 5. An accurate and detailed statement of the receipts and expenditures of the public moneys, and several amounts paid, to whom, and on what account, shall from time to time be published, as shall be prescribed by law.

SEC. 6. The General Assembly shall provide by law for the protection of the rights of women, married and single, in the acquiring and possessing of property, real, personal and mixed, separate and apart from the husband or other person, and shall also provide for the equal rights of women in the protection, with the husband, of their children, during their minority; also shall provide for the security of a homestead, which, without the consent of the wife, she cannot be divested of."

Section 7 was read, viz:

"SEC. 7. Every person chosen or appointed to office in this State, before entering upon the discharge of the duties thereof, shall take and subscribe an oath to support the Constitution of the United States, and also his oath of office."

On motion by Mr. MCCLELLAND, it was stricken out of the report.

Section 8 was read, to wit:

"SEC. 8. There shall be chosen by the electors of the State at large, at

the election for State officers, a Public Printer, whose duty it shall be to print all the laws and public records of the Legislature, and State offices, and procure all the stationery required for the same, and whose salary shall be fixed by law."

Mr. THACHER. Mr. Chairman, I move to strike it out.

Mr. INGALLS. Mr. Chairman, I hope before gentlemen vote to strike this out, they will at least hear it read once more, and consider the purpose involved. There is, perhaps, more liability to corruption in the office of public printer, than in any other office in the State, and this section is to avoid that.

Mr. SLOUGH. I propose the following as a substitute for this section. It is copied from the Ohio Constitution, section 2d in the article on miscellaneous:

"SEC. 8. The printing of the laws, journals, bills, legislative documents and papers for each branch of the General Assembly, with the printing required for the Executive and other departments of State, shall be let on contract to the lowest responsible bidder, by such executive officers, and in such manner, as shall be prescribed by law."

Mr. INGALLS. I move to lay the substitute on the table.

The Convention refused to table—affirmative 10, negative 18.

Mr. ROSS. Mr. Chairman, I hope the substitute will not be adopted, for I am satisfied that it would open a source of corruption. I speak of my own knowledge of its workings in another State. I have known thousands squandered by this letting the printing of the State to the lowest bidder. I have known the contract to be taken at about half the price [*236] paid *to the journeymen, and at that rate the contractor made forty to fifty dollars. For this reason, I advocate the section as it stands. By the election of the public printer by the people—giving him a salary as other officers of State—giving him specific duties, and making him responsible for them as much as the Executive or the Secretary of State—we shall have some chance, at least, of receiving the services of an honest man, and procuring the printing of the State at something like a reasonable price.

Mr. SLOUGH. Mr. Chairman, the difference between the systems proposed by the gentleman and myself is about this: under the provisions of the article in the report a single individual—the State printer—will have the whole matter of the public printing in his own hands; whilst, under the system prepared in the amendment, the Legislature may provide a board of State officers who shall open and let the contracts to the lowest responsible bidder. It seems to me, that if there are several public officers engaged in this matter, there will be less liability to fraud and corruption, than if it were all placed in the hands of one person. This is found to work well in the State of Ohio.

The substitute was adopted—affirmative 15, negative 13—and so the section, as amended, passed.

Sections 9 and 10 were read and passed, viz:

"SEC. 9. An accurate and detailed statement of the receipts and expenditures of the public money, and several amounts paid, to whom, and on what account, shall, from time, be published, as shall be prescribed by law.

SEC. 10. The Legislature shall have power to reduce the salaries of

officers, who shall neglect the performance of any duty that may be assigned them by law."

On motion by Mr. SLOUGH, the committee now rose, and the Chairman reported the bill and amendments.

On motion by Mr. STINSON, the further consideration of the report was postponed till the printed report shall come in.

The PRESIDENT. The Chair understands that the order replaces the report in the hands of the committee on Amendments and Miscellaneous —to be returned to the Convention for further action. It is not referred to the committee on Phraseology and Arrangement.

THE HOMESTEAD.

The first report from the committee on Amendments and Miscellaneous having been returned according to order, by the committee on Phraseology and Arrangement, was now ordered to be taken up.

On motion by Mr. THACHER, the vote on the adoption of the homestead section was reconsidered, and the question being again on its passage.

Mr. THACHER proposed to strike out and substitute the following:

"A homestead of not more than 160 acres of land or a house and lot, neither to exceed in value $2,000, belonging to any householder, shall be exempt from forced sale on any process of law, and shall not be alienated without the joint consent of both husband and wife, when that relation exists. The provisions of this section shall not apply to debts contracted before the adoption of this Constitution; nor to liens given by the joint consent of both husband and wife; nor to the obligations incurred for the purchase of money [1] or the improvement upon said land; nor to the collection of taxes lawfully levied thereon."

Mr. ROSS. Mr. President, I move to amend by inserting "$3,000" instead of "$2,000."

The amendment was rejected.

Mr. SLOUGH. I move to strike out "$2,000," and insert "$1,000."

Mr. KINGMAN. Mr. President, I do not feel well—physically as well as mentally, I am totally unfitted now to discuss this question of a homestead law, and I do not attempt it. But in our action here, I wish to insist on the clear distinction between the homestead and an exemption law. And I can see in the substitute proposed by the gentleman from Douglas [*237] (Mr. *Thacher) nothing but an exemption law. It looks to me that every essential feature—every requisite of a homestead law, as I have advocated it, is abandoned in this substitute, and if adopted here, I shall abandon all hope of a homestead in our legislation. To limit the value of the homestead to two thousand dollars, is to say to the owner: so long as your land remains unimproved—so long as it shall remain poor and sterile, it is yours. But the moment you put your labor upon it—the moment you improve and adorn it, and make it inhabitable and beautiful, it shall be taken away from you for the payment of your debts. This amendment tells him that his labor shall be in vain—tells him to keep away the hand of improvement, for if you advance its value beyond our limit, your homestead, your reliance for the support of your family is gone. Sir, any limitation on the value of the homestead is wrong. One hundred thousand dollars is as disgusting to me as one thousand. I would not give a straw for the difference, in this provision, between these

[1] NOTE.—Undoubtedly this phrase should read "For the purchase-money of."—*Ed.*

two sums. In either case it is opposed to the principle, that a home is a home—good or bad—valuable or valueless—it is simply the home, the hearthstone, the fireside around which a man may gather his family, with the certainty of assurance that neither the hand of the law, nor any, nor all of the uncertainties of life can eject them from the possession of it. Without this characteristic, a homestead law, to my mind is most distasteful. But a true homestead law has always laid very near my heart, and I regret that both physical and mental infirmity prevent from an exposition of my views at this time. If the value of a man's home stands up to five hundred thousand dollars—if his labor and a wise location have made it, let him have the benefit of it—let him have and enjoy his home and the society of his friends. It cannot hurt his creditors—but it would give him credit and heart, if by a solemn act in this Constitution he were to be assured that no impious hand can disturb his possession—that no unfeeling creditor can touch it. I am willing, sir, that the original article shall be so amended as to have no application to debts heretofore contracted. I think it has that extent as it now stands. But I am not willing to give up this homestead entirely, and take in the place of it this bastard child of an exemption law.

Mr. J. BLOOD. Mr. President, I agree with the gentleman, that this substitute is merely proceeding upon the exemption of a certain amount of property, and is not a homestead. As I understand the substitute it does not require that the person claiming the exemption shall be a resident on the land. If he is a householder in the State of Kansas, he is entitled to the exemption, without being a resident on the land. I mention this to show the effect of it as a mere exemption law, for it is not a homestead law. I think all Legislatures should be allowed to pass liberal exemption laws; but no exemption law should be inserted in the Constitution. A homestead would be less objectionable in the Constitution. The original section requires that the land or house and lot shall be owned and occupied by the claimant. The substitute makes no such provision, but exempts the land, without requiring the beneficiary to reside on it. I believe, sir, it would be in order to move now to amend the original article, for the parliamentary rule says, the friends of a bill shall be allowed to make it as perfect as they can before the substitute shall be put. And as there seems to be some objection to the original here, in consequence of the large amount of property it may include, I propose to strike out "one hundred and sixty acres," and insert "eighty acres."

The PRESIDENT. The Chair is of opinion that the gentleman's amendment is not in order unless the gentleman from Douglas will withdraw.

Mr. THACHER. Mr. President, I think the distinction which my friend from Brown (Mr. Kingman) has drawn between an exemption law and a homestead law, is a distinction without a difference. The only distinction [*238] he saw was that the homestead must be without any *restriction upon its value. But now, I might be willing to strike out "two thousand dollars," and insert "one hundred and sixty acres of land," or, I should think, "eighty" would be sufficient. I would not be willing, however, for a man to place improvements on his hundred and sixty acres to the amount of a hundred thousand dollars, beautifying and adorning his grounds, and then turn round and refuse to pay his debts. In the State of Wisconsin, they have an exemption covering, I think, half an acre of ground, and it is alleged that there is a man owning that amount in the town of Milwaukie, worth half a million of dollars, and yet they cannot

collect a cent from him. I think there ought to be a point beyond which an exemption shall not go. I am willing that the limitation shall be eighty acres. I am not willing to allow any man to sport on one hundred and sixty acres, obtain credit from friendly men, and then turn round and cheat them out of it. It strikes me that it would amount even to a law against the collection of debts. I think eighty acres, with no limit as to its value—(and I would not limit the value of the house and lot)—would be sufficient. I will not stand upon any distinction between a homestead and an exemption. I am obliged to believe that that principle is eminently benevolent in legislation, which guarantees to every mother and every child in the State a home, to which they may retire and find shelter from the storms of life. It guarantees a sacredness to every home, of which I believe the people will justify an exhibition in the Constitution of the State. I am with the gentleman from Brown. I can freely endorse his language with respect to the sacredness of home. I withdraw the substitute for the purpose of allowing gentlemen to perfect the original section.

Mr. WINCHELL. (Mr. Townsend in the Chair). With a desire to accommodate views, and obviate objections that have been raised, I shall offer an amendment for the consideration of the Convention. It is an amendment which I believe meets the views of those gentlemen whose ideas correspond with my own—such as the gentleman from Brown (Mr. Kingman), and the gentleman from Douglas (Mr. Thacher); and I believe it is the prevailing idea of the Convention. I propose to strike out the first three lines of the original section, and insert the following words:

"A homestead to the extent of one hundred and sixty acres of prairie land, or of one acre within the limits of any incorporated town or city, occupied as a residence by the family of the owner, together with all improvements on the same;" so that the section will read:

"A homestead to the extent of one hundred and sixty acres of farming land, or one acre within the limits of any incorporated town or city, occupied as a residence by the family of the owner, together with all the improvements on the same, shall by law be exempted from forced sale under any process of law; and shall not be alienated without the just consent of husband and wife, but no property shall be exempt from sale for taxes or for the payment of obligations contracted for the purchase of said premises, or for the erection of buildings thereon."

I propose that amendment, believing that it gives to the mechanic, or the resident of any town or city, the same opportunity of improving, adorning and beautifying his home that it gives to the agriculturist. It does not limit the value of the improvements in either case, and I believe it meets the views of the friends of the measure generally. It makes no difference, whether the property be one hundred and sixty acres to the farmer in the country, or one acre to the mechanic in town—both are equally recognized as the homestead occupied by the family of the owner.

Mr. BURRIS. Mr. President, I move to amend the substitute, by striking out "one hundred and sixty," and inserting "eighty"; and by striking out "one," and inserting "one-half" Eighty acres of land in Kansas it [*239] seems to me *is a homestead amply sufficient for any one family to live and obtain a support upon. The design is to secure a home for the wife and children, and I think that end will be fully accomplished by securing eighty acres of land. Then a half acre is quite large enough for a city homestead. It is of sufficient size to erect a mansion upon—ample for

the erection of the most costly improvements; and eighty acres would make a large farm.

Mr. BLUNT. Mr. President, is a second substitute now in order?

Mr. PRESIDENT. The Chair will rule that a substitute for the whole is now in order.

Mr. BLUNT. Then I offer the following as a substitute for the whole:

"The Legislature shall provide by law for the exemption from forced sale upon any process of law, except for taxes, an amount of property, either real or personal, not less in value than one thousand dollars. Provided, that such exemption shall not apply to any purchase money for any tract of land claimed under such exemption law, or any mortgage or deed of trust that may be lawfully obtained, or for debts contracted for labor bestowed upon any premises claimed under such law."

It was laid on the table.

The question recurred on Mr. Burris' amendment to Mr. Winchell's amendment.

Mr. HOUSTON. Mr. President, I regret the necessity of having to speak more than once on the subject. But I feel that it is a subject worthy of especial attention. And I ask gentlemen, before they step in this matter, to remember that we are upon a question that requires deliberation We should tread softly, till we can see clearly. There are gentlemen in this body who wish to defeat this measure, by mingling an exemption law with the homestead. Sir, I regard this as a great measure of State policy, which is to enlarge and beautify the future State of Kansas; and I wish gentlemen, when they think of the homestead, to think of it as something worth preserving—a great State measure—to be placed in the organic law—to secure the homes of the people against all the fluctuations of trade. For, on the other hand, if it be left to the Legislature, if they see proper to pass an exemption law, it will be constantly subject to the fluctuations incident to legislation. With reference to this section as it once passed the Convention, I have said before, that I regard it as imperfect. But I do not expect to get a measure exactly in accordance with my views. I think this amendment, submitted by the President, obviates some objections. I think we ought to require the man who enjoys a homestead-exemption to reside upon it. Then again, the objection as to the unequal bearing of the original section because it looked more to the security of the farmer, is obviated by the clause giving to the mechanic—the man living in town or city—one acre of land and improvements. We must all consider the difficulties in providing a homestead that shall be perfectly free from objection. It is to be judged comparatively. It can only approximate to the perfection we all desire. I do not wonder that our friends of the legal profession here are opposed to the homestead. It would hurt their craft; for by their craft they have their wealth. It would injure the collecting business—

Mr. MCDOWELL. Mr. President, I rise to a point of order. The gentleman from Riley is reflecting upon a worthy class of delegates in this body.

Mr. HOUSTON. I ask the gentleman's pardon, sir. But I know that it is by this credit system he has his wealth, and that the homestead, by restricting that, must affect his pocket. Of course, I do not complain of those who stand with us on this measure. But it looks most natural that they would all go in the opposite direction. But, with reference to this eighty acres reduction proposed by the gentleman from Johnson (Mr. Burris), I have this to say. We are asking Congress for a homestead of

one hundred and sixty acres for the actual settler. This measure has be- [*240] come connected with the great *Republican party: and yet we see Republicans here trying to divide and say eighty acres! So giving occasion for men to say: They are asking Congress to do for them what they are not willing to do for themselves. I once knew a gentleman opposed to us as a party, who offered this particular reason against a homestead: He said it would enlarge the area of freedom, and soon convert this beautiful land into homes for free labor! That such a man should oppose the homestead, I do not wonder. But that members of the Republican party should hesitate upon this measure, so imperatively demanded by the exigencies of the age, is doubly strange indeed. Sir, I do not wish to consume time by discussion. Let us be consistent, and vote down the amendments of the Opposition.

Mr. BLUNT. Mr. President, I would like to have the reading of the proposition as it would be if amended.

The Secretary read the article as proposed to be amended.

Mr. BLUNT. I am unwilling, sir, to occupy time unnecessarily, but I cannot see this pass without giving some of the reasons which induce me to vote against the proposition as it stands. While I am willing and anxious to co-operate with members of this Convention to secure, as far as our action can secure, an exemption law which shall protect all classes of men, yet I cannot sustain the proposition now before the House. There are gentlemen on this floor, who seem to have got it into their heads, that this provision for a homestead exemption is an irrepressible popular movement; and they seem to have come here predetermined on the subject, and fearing that their views on the question might lose strength by comparison with others, they conclude that the best way is to force the thing through—to table every proposition that comes up which proposes an exemption law different in its features from that which was adopted yesterday. And for all that I can perceive, there is very little difference between the proposition now before the House, and the proposition which was passed yesterday, and which, I find, is creating more excitement and feeling outside than any other proposition upon which we have acted. And I do not hesitate to tell gentlemen, that in voting for this homestead exemption, they are voting down their Constitution. I believe it will defeat its ratification by the people. And I would ask those who are in favor of this movement—if they wish to see this Constitution become the organic law of Kansas—if they will put through this proposition in its present shape, which I know to be obnoxious to the great mass of the people, then I ask them to submit this article in a separate ballot, and not go on and drag down the Constitution by it. I tell gentlemen that there are certainly some counties that would vote against the Constitution in view of this exemption law alone, though they might be in favor of every other part of the instrument. My object in offering the substitute which was laid on the table was, that we might provide for an exemption law whose benefits should enure to all classes of people. I want the mechanic and laborer protected, just so much as the person who is so fortunate as to own real estate. But gentlemen say, let them go and buy a farm—let them buy a house and lot—and then they can come under the exemption provisions. That might be easily done, if they were so fortunate as to have the money to do it. The difficulty is, that gentlemen go upon the presumption that every man has as much money as he knows what to do with —that he has a surplus fund to invest, especially when he needs an ex-

emption law! But this is not the case. There are very many worthy mechanics and industrious, laboring men, whose means are limited, who would be most of all others benefited by the privilege we propose to impart by this homestead to every man coming under its provisions. They have, perhaps, no more capital than is necessary for immediate use in carrying on a mechanical craft for the purposes of stock, and they are [*241] necessarily com*pelled to rent. And it is not to be presumed that they can be generally clear out of debt! They are just as likely to be in debt, as men that till the soil. But, sir, your article here gives these men no protection at all. Their stock, their tools, and the last bed for their family may be sold—unless, perchance, the Legislature should provide an exemption law, in addition to your homestead; and I think, after the reception which this homestead is destined to meet with among the people, the Legislature will not be very likely to exempt property from execution. Let us look at it. Suppose a man is the owner of one hundred and sixty acres of land, well improved and valuable. He is independent—not under the necessity of tilling the soil with his own hands, but hires a tenant for that, who is located on one corner of his land, who owns no realty, but whose property consists entirely of chattels—horses, wagons, farming implements, such as are necessary to cultivate this farm. And in consequence of the labor which this tenant bestows on this farm, the owner necessarily becomes indebted to him, say two or three hundred dollars, and still has no other property but this land—is it not clear, that in such a case, under your homestead, the tenant has no protection? He can neither collect from his landlord, nor prevent his own creditors from taking away his horses, cows, wagons, implements, and the last article of property he has—all this, while the man who owns his hundred and sixty acres of land, highly cultivated and richly improved, is protected by law! and the man whose labor has been thus bestowed, is inhibited from collecting his just dues from such a man! I warn gentlemen against attempting to strike down this Constitution by incorporating such a provision as that—but let it be submitted to the people by a separate ballot. If the people desire it, of course they will ratify it; and by submitting it in this way you do not endanger the Constitution itself. If we do not take this course, the inevitable conclusion in my mind is, that the people will reject the whole thing—and so it will result, that instead of legislating for the people, we are but legislating to make the people repudiate this Convention.

I know, sir, and admit, that there is no person who needs the protection of a homestead more than myself; but I have not been called here to legislate for myself, but for the people of Kansas. The gentleman from Riley (Mr. Houston) attempts to sustain this provision, by bringing up the idea of a homestead grant by Congress. There is no similarity between the two. I understand that the homestead exemption by Congress proposes to give—to donate out of the public domain—one hundred and sixty acres of land to every man who will settle upon and cultivate it, and thereby enhance the value of the balance of the public domain, and so conduce to the general wealth and prosperity of the country. And I think it is perfectly legitimate, if they make this donation, that they should protect and secure him in the enjoyment of it, by providing by a national law that it shall be and remain forever exempt from execution in his hands. And if we were owner of the public domain, and would say to the people of Kansas: Here, each man take his hundred and sixty acres and settle upon and improve it, and it shall be forever secure in your hands from forced sale under execution or any process of law, I

believe we would have the right to add to the donation such terms and conditions as we might see proper. But we do not stand in that relation to the people, and so far the two cases are entirely dissimilar. And although I am in favor of protecting the people from all unnecessary impressments incident to misfortune and mismanagement in trade—although I am in favor of protecting the debtor against the rigor of the law, yet, [*242] if I cannot extend that se*curity to all classes, without distinction as to vocation or calling, I shall be compelled to forego the benefits of such a provision in this Constitution. I am constrained, sir, to vote against any proposition which discriminates in favor of one class of men and against another.

Mr. MCDOWELL. Mr. President, I rise to a personal explanation. I hold in my hand *The Wyandotte Daily Commercial Gazette*, of July 20, 1859, and I notice that in the list which it contains of the worthy members and officers of this Convention, my name, among others, is mentioned. But, in the first place, one of the initial letters of my name is wanting. I am presented here as "William McDowell." The "William" is right, but my name is "William C. McDowell," and I insist that it shall be so marked in this list. The C. in my name, sir, represents a distinguished man, and on his behalf I propose to have this letter inserted. The C. stands for "Cyrus," and as that distinguished character is not present to speak for himself, I insist upon his rights in the case. But, sir, in addition to this, I am represented as being "81" years old. Now, I know, I am willing to consider that the gravity of my deportment, and the great wisdom of my suggestions here, entitle me to be assigned an age perhaps much in advance of any other member on this floor. But I do not know whether our worthy Secretary, who made this list, under the resolution of my colleague (Mr. Brown) drew this supposition to be my age from the character of my remarks on this floor—so redolent of wisdom—or whether he has been pleased simply to make a little slur at my bald head. I have seen men at eighty-one whose heads were not as bald as mine. But I see a gentleman before me—much younger than eighty-one—Colonel Slough, of Leavenworth—whose head is much more bald than mine; and his age, I suppose, is correctly recorded here. Mr. President, I demand these corrections be made. (Laughter).

Mr. THACHER. I propose that the gentleman's age be changed to "seventy-five."

The PRESIDENT. Gentlemen are not in order.

Mr. RITCHIE. Mr. President, it seems to me that this proposition involves a test question. I understand that one of the planks in the platform of the Republican party is, to give homes to the homeless. I do not insist on the passage of the proposition on account of this plank, for I do not believe it belongs exclusively to the Republican party. I believe that men of all parties—except the President of the United States—so far as I have heard any expression, have been in favor of this plank. But, now, Mr. President, it seems to me that we are called upon, not only as Republicans, but as Democrats, to come up to this cause, and show that we are in favor of this liberal provision in behalf of the poor. I believe, sir, that we are no longer in any danger of the system of American slavery being extended over the rich plains of Kansas. But I am fearful that another system of oppression—sometimes called the money-power—is about to take possession of us; and I appeal to the Convention in behalf of a suffering humanity, in behalf of unfortunate fathers and mothers and their posterity in poverty, that they may be protected by the arm of the law,

and have and enjoy a home that can not be violated by the act of the money-sharpers.

Mr. GRIFFITH. Mr. President, I concur entirely in the remarks of the gentleman from Brown (Mr. Kingman) in regard to the principle involved in this question. But I am free to confess that the proposition adopted yesterday is imperfect. Indeed, that was seen at the time. But we thought we perceived a manifest disposition to vote down the entire proposition. I rather think, sir, that the amendment offered by the honorable President of the Convention does not exactly meet the difficulty yet—does not cover the whole ground—and, if in order, I beg leave to offer [*243] *a substitute for the whole, which I will read from my place:

"A homestead of not more than eighty acres of land, used for farming purposes, or in lieu thereof a house and lot, occupied as a residence by the owner, shall be exempt from forced sale, except for taxes, or for the payment of obligations contracted for the purchase of said homestead, or for the erection of buildings thereon, or for the payment of debts heretofore contracted, and shall not be alienated without the joint consent of husband and wife, in cases where that relation exists."

This is silent in regard to mortgages, but I hold that the last clause covers that. I ask, sir, if a mortgage is not a conditional sale? and if it have the names signed—the wife's name annexed, it covers the whole ground. I wish to offer no remarks, sir. I believe we are largely in favor of a wholesome homestead. We differ only in details. I propose to accommodate views by reducing the exemption to eighty acres, which may be sold only for taxes, for debts heretofore contracted, or for the purchase of the homestead, or the erection of buildings thereon—also making the condition of residence by the owner.

Mr. THACHER. Mr. President, I think the substitute is well drawn, and that it secures parties all round. There is only one consideration as between the two propositions, and that is, whether we shall say "eighty," or "a hundred and sixty acres." I am content to call it "eighty."

Mr. BLUNT. As it is the fashion, I move to lay the gentleman's substitute on the table.

There was no second.

Mr. BURRIS. Mr. President, if I understand the substitute, there is no exception made for debts contracted before the adoption of this Constitution. If that is so, I object. Otherwise, I do not see any difference between that and the other amendment which I offered.

Mr. THACHER. I understand that is in it.

Mr. GRAHAM. Mr. President, I move to strike out "eighty," and insert "one hundred and sixty."

The motion was rejected—affirmative 13, negative 17.

Mr. GRAHAM. Mr. President, I now move to lay the substitute on the table.

The yeas and nays being demanded, ordered and taken thereon, resulted—yeas 30, nays 16—as follows:

YEAS—Messrs. Burnett, Blunt, Brown, Barton, Burris, Foster, Forman, Graham, Greer, Hipple, Hubbard, Hutchinson, Houston, Hoffman, Ingalls, Kingman, Middleton, McClelland, Moore, McDowell, McCune, McCullough, Porter, Ross, Slough, Stiarwalt, Stokes, Townsend, J. Wright, Wrigley—30.

NAYS—Messrs. Arthur, J. Blood, N. C. Blood, Crocker, Dutton, Griffith,

Hanway, Lillie, Lamb, Preston, Palmer, Ritchie, Signor, Simpson, Thacher, Williams—16.

So the substitute was laid on the table.

The question recurred on the amendment offered by Mr. Burris.

On motion by Mr. GRAHAM, it was also laid on the table.

The question recurring again on Mr. President Winchell's amendment.

Mr. THACHER. Mr. President, would it be in order to offer an amendment to protect contracts made before the adoption of this Constitution?

The PRESIDENT (Mr. Townsend in the Chair). It would not be in order.

Mr. WINCHELL. I propose to modify it so as to read, "a homestead not exceeding eighty acres;" and as to the house and lot, insert, "as shall be provided by law."

The President. It is not in order.

Mr. GREER. Mr. President, I move to amend, by striking all after the words, "for the payment of taxes."

The PRESIDENT. The question is on Mr. Winchell's amendment—striking out and inserting new matter for the first three lines of the section.

Mr. WINCHELL's amendment was adopted—affirmative 33, negative 7.

Mr. GREER. Mr. President, I now move to amend, by striking out all [*244] after the words, *"for the payment of taxes." I make this motion for the purpose of placing the proposition before the Convention in its proper light. It starts out with the proposition, that it is a homestead. But it cannot be a homestead if the owner is permitted to encumber it so as to authorize its sale for indebtedness. It would be a mere exemption law (so objectionable to the gentleman from Brown and others), if the parties may give a lien under which it may be sold. If we are to call it a homestead, let us make it a homestead. But if it is to be an exemption law, let us change the title.

Mr. THACHER. Mr. President, if you strike that out, you allow the party no power over their place at all, and it seems to me it would open a wide door for fraud.

Mr. GREER's amendment was rejected.

The homestead section, as amended, was then passed the Convention.

On motion by Mr. THACHER, it was again referred to the committee on phraseology and arrangement, and ordered to be printed.

Mr. THACHER. Mr. President, I would ask the chairman of the committee on the Executive department, if that committee is ready to report?

Mr. GREER. Our report is still in the hands of the printer.

Mr. THACHER. I would inquire of the chairman of the committee on printing, whether we shall have any other reports printed to-day?

Mr. ROSS. The report of the committee on Executive department will be ready very soon. It was promised at this time. There are two reports promised to-day. I do not think there will be any other besides the Executive report ready this afternoon.

Mr. THACHER made an ineffectual motion to adjourn; and then—

On motion by Mr. BARTON, the Convention took a recess till 3 o'clock this afternoon.

AFTERNOON SESSION.

The President called the Convention to order at 3 o'clock.

Mr. BURRIS. Mr. President, I have a resolution I would like to offer:

Resolved, That the courtesies of this Convention be tendered to Earl Marble, of the St. Joseph *Free Democrat*, and that he be invited to a seat within the bar.

The resolution was adopted.

Mr. THACHER. Mr. President, I would enquire whether we have the report of the committee on the Executive before us yet?

Mr. GREER. You have not.

A Voice. I understand the printed report is in the Hall, but not yet distributed.

Mr. BLUNT. Do I understand the report is before the Convention?

The PRESIDENT. It is not before the Convention.

Mr. THACHER. I call for it.

Mr. GREER. Mr. President, I offer the following report from the committee on the Executive department:

EXECUTIVE DEPARTMENT.

"SECTION 1. The Executive Department of the State shall consist of a Governor, Secretary of State, Auditor, Treasurer and Attorney-General; who shall be chosen by the electors of the State at the time and place of voting for members of the General Assembly, and shall hold their offices for the term of two years from the 2d Monday of January next after their election, and until their successors are elected and qualified.

SEC. 2. The returns for every election for the officers named in the foregoing section, shall be sealed up and transmitted to the seat of Government by the returning officers, directed to the President of the Senate, who, during the first week of the session shall open and publish them, and declare the result in the presence of the majority of the members of each House of the General Assembly, and the person having the highest number [*245] of votes shall be declared *duly elected; but if any two or more shall be highest and equal in votes for the same office, one of them shall be chosen by the joint vote of both Houses.

SEC. 3. The supreme Executive power of this State shall be vested in the Governor.

SEC. 4. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

SEC. 5. He shall communicate at every session, by Message, to the General Assembly, the condition of the State, and recommend such measures as he shall deem expedient.

SEC. 6. He may, on extraordinary occasions, convene the General Assembly by proclamation, and shall state to both Houses, when assembled, the purposes for which they have been convened.

SEC. 7. In case of disagreement between the two Houses in respect to the time of adjournment, he shall have power to adjourn the General Assembly to such time as he may think proper, but not beyond the regular meetings thereof.

SEC. 8. He shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States.

SEC. 9. He shall have power, after conviction, to grant reprieves, commutations and pardons, for all fines and offenses except treason and cases of impeachment, upon such conditions as he may think proper; subject, however, to such regulations, as to the manner of applying for pardons, as may be prescribed by law. Upon conviction for treason he may suspend the execution of the sentence, and report the case to the General Assembly at its next meeting, when the General Assembly shall either pardon, commute the sentence, direct its execution, or grant a further reprieve. He shall communicate to the General Assembly, at every regular session, each case of reprieve, commutation or pardon granted; stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon or reprieve, with his reasons therefor.

SEC. 10. There shall be a Seal of the State, which shall be kept by the Governor, and used by him officially; and shall be called "The Great Seal of the State of Kansas."

SEC. 11. All grants and commissions shall be issued in the name and by the authority of the State of Kansas; sealed with the Great Seal, signed by the Governor, and countersigned by the Secretary of State.

SEC. 12. No member of Congress, or other person holding office under the authority of this State, or of the United States, shall execute the office of Governor, except as herein provided.

SEC. 13. In case of the death, impeachment, resignation, removal or other disability of the Governor, the power and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the President of the Senate.

SEC. 14. The President of the Senate shall vote only when the Senate is equally divided, and in case of his absence or impeachment, or when he shall exercise the office of Governor, the Senate shall choose a President *pro tempore*.

SEC. 15. If the President of the Senate, while executing the office of Governor, shall be impeached, displaced, resign or die, or otherwise become incapable of performing the duties of the office, the Speaker of the House of Representatives shall act as Governor until the vacancy is filled or disability removed.

SEC. 16. Should the office of Auditor, Secretary or Attorney-General become vacant, for any of the causes specified in the 15th section of this article, the Governor shall fill the vacancy until the disability is removed, or a successor elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days [*246] after it shall have happened; and the person chosen shall *hold the office for the full term fixed in the second section of this article.

SEC. 17. The officers mentioned in this article shall, at stated times, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

SEC. 18. The officers of the Executive department, and of the public State institutions, shall, at least five days preceding each regular session of the General Assembly, severally report to the Governor, who shall transmit such reports, with his Message, to the General Assembly."

Mr. THACHER. I move to go into committee of the whole.

The motion was agreed to.

The Convention accordingly resolved itself into a committee, Mr. Burnett in the Chair, and took up the consideration of the report on the Executive.

Mr. SLOUGH. I move that the report be taken up section by section.

The motion was agreed to.

Section 1 was read.

Mr. STINSON. Mr. Chairman, I move to amend by inserting after the word "Governor" the words "Lieutenant-Governor."

Mr. MCDOWELL. Mr. Chairman, before that motion is put I want simply to say a word. This matter was considered in committee, and we thought it advisable to have no Lieutenant-Governor in the new State of Kansas. We thought it was a useless office and therefore incurred a useless expense—a sort of a figure on the chequer board that don't amount to much. Since broaching the matter, however, we have discovered there are so many gentlemen here wishing to fill that office, that we think it might be changed.

Mr. STINSON. I would state that Mr. McDowell's opposition to creating the office has only been withdrawn since one of his friends suggested that he might receive the nomination.

The motion was adopted upon a division.

Mr. BURRIS. Mr. Chairman, I wish to add a further amendment. Add after the word "Treasurer," "Superintendent of Public Instruction."

The motion was agreed to.

Mr. RITCHIE. The words "General Assembly" should be changed to "Legislature."

The PRESIDENT. That is a mere clerical error, and will be corrected.

Section 1 was adopted.

Section 2 was read.

Mr. BLUNT. Mr. Chairman, I would propose a verbal correction: Strike out the words "General Assembly," and insert the words "Senate and House of Representatives."

Mr. STINSON. I would suggest "Speaker of the House of Representatives" instead of "President of the Senate."

Mr. MCDOWELL. I would enquire whether it is certain there will be a Speaker of the House of Representatives at that time?

Mr. STINSON. I withdraw.

Mr. THACHER. Mr. Chairman, it strikes me all this is wrong. In New York the returns of election are made to the Comptroller, Attorney-General, and another, who form a Board for the purpose of canvassing the returns. I think something of this kind should be done here. Say the Secretary of State, Auditor and Attorney-General should canvass the returns and declare who has the highest number of votes.

Mr. BLUNT. I would amend that motion so that it shall read "Directed to the President of the Senate, Secretary of State and Auditor, who shall constitute a Board of Canvassers, and any two can act."

Mr. SLOUGH. I would suggest the propriety of inserting the amendment after the word "who," so it will read, "directed to the President of the Senate, who, with the Secretary of State and Auditor shall constitute," &c.

It complicates the matter to have the returns directed to three; let it be directed to one and opened by the three.

[*247] *Mr. BURRIS. Mr. Chairman, it occurs to me that it is better as reported, than we can get it. It is provided that returns should be opened in the presence of a majority of both Houses of the Legislature; and further, in case of a tie it shall be decided by votes of a joint convention of the two houses, as I understand it: so that being directed to the presiding officer of one branch of the Legislature, it seems to me is the proper way, and that the returns should be opened by him and canvassed in the presence of the two Houses. In the event of there being any further action necessary they are the bodies that are to decide the matter. Let the votes be counted in the presence of a majority of the members of each of these bodies, and then they are on hand ready to take such action as may be found necessary—ready to decide between those who have an equal and the highest number of votes.

Mr. SLOUGH. I move to lay the amendment on the table.

Mr. PRESIDENT WINCHELL. I would suggest to the Convention that the officer, after all, most proper to perform that duty, is the Secretary of State.

Mr. BLUNT. Will the gentleman withdraw his motion to lay on the table for a moment?

Mr. SLOUGH. Yes, sir.

Mr. BLUNT. Mr. Chairman, it appears to me this section is insufficient. It seems there is no other person authorized to open the returns. The President of the Senate might be necessarily absent, and in that case it should be provided that some other person should have authority to open these returns; hence I made the proposition to amend by inserting in connection with the President of the Senate, the Secretary of State and Auditor. They should then be directed to the President of the Senate, and in case of his absence there would be two other persons that would be authorized to take charge of these returns, and open them in the presence of the two Houses.

Mr. THACHER. Mr. Chairman, I would observe that this section, as it stands, does not authorize the President of the Senate to open these returns in the presence of both Houses; it only authorizes him to open them during the first week of the session and declare the result in the presence of a majority of the members of both Houses. It appears to me that is radically wrong.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I move that the entire section be stricken out. We have said a great deal about putting special legislation in the Constitution. It really seems to me the Legislature will be competent to take care of this. We all see the votes would be cast previous to the organization of the bodies, and may not affect them for weeks afterward. It seems to me that we had better strike this section out and have the first election provided for in the schedule.

Mr. SLOUGH. Mr. Chairman, I am opposed to the proposition to strike out, for the reason that I think it unnecessary. We should have some officer provided for to whom the first returns should be made. They must be sent somewhere.

Mr. PRESIDENT WINCHELL. If the gentleman will allow me to correct him: I stated that the provisions of this first election can be introduced in the Schedule, and should be.

Mr. SLOUGH. Mr. Chairman, this is a provision that is copied verbatim from the Ohio Constitution, and under which there has been no trouble in that State. A President of the Senate can be created, in the absence of the Lieut. Governor, by the action of the Senate; and in the first organization it will be necessary to appoint a President *pro tempore,* and that officer will open the returns. I am opposed to striking out.

The motion was adopted upon a division—affirmative 19, negative 13.

Sections 3, 4, 5, 6 and 7 were severally read and adopted.

[*248] *Section 8 was read.

Mr. BLUNT. Mr. Chairman, I presume we shall never have any naval officers or a navy upon Kaw river, and I propose to strike out the words "and naval."

Mr. SLOUGH. I move to strike out the whole section. We have provided for this same matter in the report of the committee on Legislative Department.

This motion was agreed to.

Section 9 was read.

Mr. HUTCHINSON. I propose to substitute for section 9 the following:

"SEC. 9. The pardoning power shall be vested in the Governor, under such regulations and restrictions as shall be prescribed by law."

The motion was agreed to and the amendment was adopted and passed.

Sections 10 and 11 were severally read and adopted and passed.

Section 12 was read.

Mr. SLOUGH. Mr. Chairman, I move to strike out the words "except as herein provided." There is no provision, as I can find, in the Article with reference to it, and I think it had better be stricken out.

The motion was agreed to.

Section 12 was adopted.

Section 13 was read.

Mr. STINSON. Mr. Chairman, I move to change the words "President of the Senate" to "Lieutenant-Governor."

The motion was agreed to.

Mr. WRIGLEY. I would call the attention of the gentleman from Leavenworth (Mr. Slough) to the section just adopted, in connection with the words just stricken out by his motion. As the section now reads: "Sec. 12. No member of Congress, or other person holding office under the authority of this State, or of the United States, shall execute the office of Governor." In section 13 it is provided, "in case of the death, impeachment, resignation—"

Mr. SLOUGH (interrupting). I see the point.

Mr. WRIGLEY. According to the 12th section, with the words stricken out, no one could discharge the duties of Governor. I suggest the propriety of restoring those words.

Section 14 was read.

Mr. WINCHELL. Mr. Chairman, I desire to amend by prefixing the words: "The Lieutenant-Governor shall act as." Strike out the first word "the" and insert "and" after "Senate," so as to make it read:

"SEC. 14. The Lieutenant-Governor shall act as President of the Senate, and shall vote only when the Senate is equally divided, and in case of his

absence or impeachment, or when he shall exercise the office of Governor, the Senate shall choose a President *pro tempore*."

Mr. STINSON. Mr. Chairman, I send up a substitute cut out of the Ohio Constitution.

"SEC. 14. The Lieutenant-Governor shall be President of the Senate, but shall vote only when the Senate is equally divided; and in case of his absence or impeachment, or when he shall exercise the office of Governor, the Senate shall choose a President *pro tempore*."

Mr. PRESIDENT WINCHELL. Precisely the same thing, sir.

Mr. SLOUGH. I move its adoption.

The motion was agreed to.

Sec. 15 was read.

Mr. STINSON. And I offer the following substitute for the next section:

"SEC. 15. If the Lieutenant-Governor, while executing the office of Governor, shall be impeached, displaced, resign or die, or otherwise become incapable of performing the duties of the office, the President of the Senate shall act as Governor until the vacancy is filled or the disability removed; and if the President of the Senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of Governor, the same shall devolve upon the Speaker of the House of Representatives."

The substitute was adopted.

[*249] The CHAIRMAN. The question is now upon *the adoption of the section as amended by the substitute. I suppose all agree.

("Agreed." "Agreed.")

Section 16 was read.

Mr. SLOUGH. Mr. Chairman, I move to insert the word "Treasurer" after the word "Auditor." Also the words "Superintendent of Common Schools."

The CHAIRMAN. These insertions will be made.

Mr. PRESIDENT WINCHELL. I suggest that the numerals "15" be changed to correspond with the changes made in the sections.

Mr. HUTCHINSON. I discover another difficulty. In the last clause it says: "and the person chosen shall hold the office for the full term fixed in the second section of this Article." Section second has been stricken out.

Mr. THACHER. I move to amend by inserting in lieu thereof, "shall hold the office for the unexpired term."

The CHAIRMAN. It will be taken as the opinion of the committee if not dissented from.

Mr. THACHER. I would suggest that "First" section be put in the place of "second."

Mr. PRESIDENT WINCHELL. I understand those last words were stricken out and the words of the gentleman from Douglas (Mr. Thacher) "shall hold the office for the unexpired term" inserted, instead of the words "shall hold the office for the full term fixed in the second section of this Article." After the word "Secretary" in the first line of the section, I would suggest that the words "of State" be inserted.

It was agreed to.

Section 16 was then adopted and passed.

Mr. BURRIS. I have prepared a section to stand in the place of section second, which was stricken out, and which I desire to have read.

The CHAIRMAN. The Chair supposes it is not strictly in order till we get through with the Article.

Sections 17 and 18 were severally read and adopted and passed.

Mr. BURRIS. Mr. Chairman, I now introduce the following as section second:

"SEC. 2. Until otherwise provided by law, an abstract of the returns of every election, for the officers named in the foregoing section shall be sealed up and transmitted by the Clerks of the Boards of Canvassers of the several counties, to the President of the Senate, who shall, during the first week of the session, open and publish them in the presence of both Houses of the Legislature in joint Convention assembled, and the persons having the highest number of votes shall be declared duly elected, but in case any two or more have an equal and the highest number of votes, the Legislature shall, by joint ballot, choose one of said persons so having an equal and the highest number of votes for said office."

Mr. Chairman, I move the adoption of that as section second of this Article for various reasons. It seems to me there should be some provision in the Constitution for a Board of Canvassers for State officers. I find it inserted in every State Constitution I have examined yet. The section which we have stricken out is found in the Ohio Constitution, and the one I offer as a substitute is almost verbatim as taken from a corresponding section in the Constitution of the State of Iowa, only that it is made returnable to the Speaker of the House of Representatives. It seems to me it is not material which, only it should be with the presiding officer of the Legislature. I think the Constitution should provide by what means the Board should be constituted, whom the votes should be canvassed before, and at what time; therefore, I have introduced this section.

Mr. HIPPLE. Mr. Chairman, I have prepared a section here to take the place of the substitute:

"SEC. 2. The returns for every election for the officers named in the foregoing section, shall be sealed up and transmitted to the seat of government by the returning officers, directed to the President of the Senate [*250] and Speaker of the *House of Representatives, who, during the first week of the session, shall open and publish them, in joint Convention assembled, and declare the result in the presence of the majority of the members of both Houses of the General Assembly, and the person having the highest number of votes shall be declared duly elected; but if any two or more shall be highest and equal in votes for the same office, one of them shall be chosen by the vote of both Houses in joint Convention assembled."

Mr. PRESIDENT WINCHELL. Mr. Chairman, I would like to enquire how far this proposed section differs from the one we have passed? It occurs to me we are interfering with the passage of a general election law by the Legislature, by which the returns are to be canvassed in some suitable manner. We provide that they shall all be sent to the President of the Senate. Instead of being sent to the township and county boards and an abstract sent up higher, these returns are all to be sent to this officer; and we are thus tying up the hands of the Legislature from making a full and general law for the regulation of elections. I can see no danger in leaving it out. If I were going to insert a section, I should prefer that it provide for an abstract to be sent to the Secretary of State—he in joint convention of the two houses, to open, &c.

Mr. BURRIS. In answer to the inquiry of what is the difference, I would state that the substitute is not open to the objection raised by the gentleman from Douglas (Mr. Thacher) that the President of the Senate was to open the returns, but not in the presence of the two houses of the Legislature, but was merely to declare the result in the presence of the two houses. That is the difference between the original section and the substitute. It seems to me that the gentleman from Osage (Mr. Winchell) is mistaken as to the result or effect, rather, of this constitutional provision. I do not understand that it would be the duty of the board of supervisors to make their returns direct to the President of the Senate, but to the board of county canvassers, and then by the respective county boards returns should be made to the President of the Senate. It would go from the township to the county board, and from the county board to the President of the Senate, who is made presiding officer of the State board of canvassers. There must be a board of canvassers, and the only question is, whether it is proper for the Constitution to provide who they shall be. As I have before remarked, I find that in all the Constitutions I have examined there is a provision of this sort. It seems to me this is proper, and that it is a safe provision. It is not legislation, any more than providing who shall be elected and how they shall be elected. We have provided who shall be elected to certain offices, how many we shall have, and I propose to say how the votes for these officers shall be canvassed. It seems to me a very proper amendment, for the reason that, in the event of there being a tie vote, it devolves upon the Legislature to choose. No one will object to throwing the responsibility upon the Legislature to decide who shall hold the office when there are two persons who have an equal number of votes. If they are the body to select from the two highest, let them have the returns opened before them and make the selection. It seems proper and safe, and not a subject of legislation.

Mr. THACHER. I move to lay it on the table.

The motion was rejected, upon a division.

Mr. THACHER. Mr. Chairman, I move to amend by inserting "abstract of the returns of every election in each county" in place of the first word "The;" and "by the clerks of the several counties," instead of "returning officers." I don't think the returns should go up directly from every township in the State.

Mr. BURRIS. Mr. Chairman, I would state that the gentleman's amendment provides that they shall be sent up by the county clerk. [*251] *Now, I don't know as we will have any county clerks. It seems to me the amendment would be useless, and might possibly create difficulty.

Mr. THACHER. As it stands now in the gentleman's section, the returning officers would have to send to the Secretary of State, instead of the county officers, as it should be.

Mr. BURRIS. It is exactly as in the Constitution of the State of Iowa, and there the votes are canvassed by the board of township trustees, and by them transmitted to the county boards or judge, who, in connection with two justices of the peace, constitute the county board, and the clerk of the county board transmits them to the State board; and no such difficulty as the gentleman suggests ever arose there. I do not believe there will be any difficulty.

Mr. THACHER. I desire to know if there is any provision for county canvassers.

Mr. BURRIS. The gentleman from Douglas (Mr. Thacher) has presented his proposition as an amendment to the section of the gentleman from Leavenworth (Mr. Hipple.)

Mr. PRESIDENT WINCHELL. I understand the question to be upon the substitute of the gentleman from Leavenworth.

The CHAIRMAN. The question is upon the amendment of the gentleman from Douglas to the substitute of the gentleman from Leavenworth.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I hold it to be a safe rule that we should avoid ambiguity. It is a sufficient objection to any language proposed to be used, that it is susceptible of two different meanings, and for that reason I prefer the language of the gentleman from Douglas, and shall vote for his amendment.

The amendment was adopted.

Mr. HUTCHINSON. Mr. Chairman, there are still two points against which objections have been urged, in the section, as it now stands. "Until otherwise provided by law;" I propose these words be inserted in the proper place, as an amendment to the substitute of the gentleman from Leavenworth. It has been suggested here that in all probability the Legislature would want to provide for a board of canvassers, and we forbid them from so doing, as the section stands. There is no restriction in the character of my amendment. I will also move another amendment if this is acted upon favorably.

This amendment was agreed to.

Mr. HUTCHINSON. Mr. Chairman, I now move to strike out the words "Speaker of the House of Representatives," and insert "Secretary of State." I do that for this reason; as this is to be a permanent condition in the Constitution, I think the election returns ought to be directed to some officer having a permanent residence at the capital, which is not the case as the section now stands.

This motion was also agreed to.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I move to amend by inserting after the words "Secretary of State," these words: "who, in connection with the President of the Senate and Speaker of the House of Representatives, shall canvass," &c. If we are to have this measure in the Constitution, let us have it right.

Mr. PORTER. Mr. Chairman, I am opposed to having a portion of the election law in the Constitution. I move to lay the sections and amendments on the table.

This motion was agreed to.

Mr. SLOUGH. I move the committee rise and report.

This motion was agreed to.

The committee accordingly rose, and the chairman reported the article and amendments as above recorded.

Mr. BLUNT. I move that we take up the report, section by section.

The motion was agreed to.

Section 1 was read.

Mr. MCDOWELL. I move to strike out the words "Lieutenant-Governor," and upon that motion I call for the yeas and nays.

[*252] *The yeas and nays were ordered, and being taken, resulted—yeas 17, nays 27—as follows:

YEAS—Messrs. Brown, Barton, Crocker, Forman, Greer, Hipple, Hubbard, Houston, Middleton, Moore, McDowell, McCune, McCullough, Preston, Porter, Ross, Signor—17.

NAYS—Messrs. Blunt, Burris, J. Blood, N. C. Blood, Dutton, Foster, Graham, Griffith, Hutchinson, Hanway, Hoffman, Ingalls, Kingman, Lillie, Lamb, McClelland, Palmer, Parks, Slough, Stinson, Stiarwalt, Stokes, Simpson, Thacher, J. Wright, Wrigley, Williams—27.

So the amendment was rejected.

Section 1 was then adopted.

Sections 2, 3, 4, 5, 6 and 7 were severally read, adopted and passed.

Section 8 was read.

Mr. HUTCHINSON. Mr. President, to save any perplexity on the part of the committee on phraseology, and also to show our liberality, I move to amend this section by inserting the word "white" before the word "State," where it last occurs, and call for the yeas and nays.

Mr. PORTER. I move to lay it upon the table.

Upon this motion the yeas and nays were demanded, and being ordered and taken, resulted—yeas 31, nays 13—as follows.

YEAS—Messrs. Burnett, Blunt, Brown, Burris, J. Blood, N. C. Blood, Dutton, Foster, Forman, Greer, Griffith, Hipple, Hubbard, Hutchinson, Hanway, Houston, Ingalls, Lillie, Middleton, Moore, McClelland, McCullough, Preston, Palmer, Parks, Porter, Ross, Stinson, Simpson, Thacher, Williams—31.

NAYS—Messrs. Barton, Graham, Kingman, Lamb, McDowell, McCune, Ritchie, Signor, Slough, Stiarwalt, Stokes, J. Wright, Wrigley—13.

So the amendment was rejected, and then section 8 was passed.

Sections 9, 10, 11, 12, 13, 14, 15 and 16 were severally read, adopted and passed.

Mr. BURRIS. Mr. Chairman, I wish to offer again a substitute for section second. I have attempted to avoid the difficulties referred to by gentlemen. It seems to me proper that we should have something of the kind in this article. I shall not argue the question at all, but simply submit it to the Convention.

"SECTION 2. Until otherwise provided by law, an abstract of the returns of every election, for the officers named in the foregoing section shall be sealed up and transmitted by the clerks of the boards of canvassers of the several counties, to the President of the Senate, who shall, during the first week of the session, open and publish them in the presence of both houses of the Legislature in joint convention assembled, and the persons having the highest number of votes shall be declared duly elected; but in case any two or more have an equal and the highest number of votes, the Legislature shall, by joint ballot, choose one of said persons so having an equal and the highest number of votes for said office."

Mr. SLOUGH. I move to lay it on the table.

The motion was rejected, on a division—affirmative 12, negative 29.

The proposed substitute for the second section was then adopted and passed.

Mr. HIPPLE. Mr. President, I move that this article be referred to the committee on phraseology and arrangement, and printed.

The motion was agreed to.

Mr. THACHER. Mr. President, I would inquire whether we have any reports before us that we can act upon.

Mr. PRESTON. The chairman of the committee on printing has gone for our report, and it is expected presently.

The PRESIDENT. The chairman of the committee on apportionment says that the chairman of the committee on printing has gone after the report of the committee on apportionment, and will return shortly.

A motion to adjourn was rejected, on a division—affirmative 11, negative 19.

Mr. BLUNT. Mr. President, I would enquire about the condition of the report of the committee on schedule.

[*253] *The PRESIDENT. The report is in the hands of the committee, and was returned for the purpose of enabling them to perfect it and bring it in at the close of the session.

PERSONAL.

Mr. BARTON. Mr. President, I offer the following resolution:

"*Resolved*, That the courtesies of the Convention be tendered to John M. Griffin, Esq., and that he be invited to a seat within the Bar."

The resolution was adopted.

PUBLIC DEBT.

Mr. BLUNT. Mr. President, I would like to recall from the committee the report on schedule, and proceed to the consideration of the ninth section.

The PRESIDENT. The Chair understands that question has already been considered in the report of the committee on finance and taxation.

Mr. BLUNT. I think if the chair will examine the report of the committee on finance and taxation, he will find there is no provision made to assume the debt of the State. The question will involve this claim business, and will consume considerable time in Convention.

The PRESIDENT. The Chair has been informed that the provision which was inserted in the schedule in regard to the public debt, was inserted in the report of the committee on finance and taxation. He does not speak from his own knowledge, but from the information he has received. The Chair would state that if the gentleman desires to bring up any individual question which is to or may have a place in the report of the committee on schedule, it is not necessary to call the entire report from the committee, where it should remain until near the close of the Convention, but he could introduce a resolution to consider any subject in the absence of the report itself.

Mr. BLUNT. I will merely state that when we had this report under consideration, we passed over the whole report to the ninth section, which reads, "No debt of the Territory shall be assumed by the State, except by a law passed by a vote of a two-thirds of each branch of the Legislature;" and it brought up considerable discussion, which involved the subject of the claims awarded by the claim commissioners, and the further consideration was postponed. I now propose to take up that section and consider it.

The PRESIDENT. The section of committee's report cannot be considered without recalling the report.

LOCATION OF THE SEAT OF GOVERNMENT.

Mr. BURNETT. Mr. President, I offer the following:

"*Resolved*, That the Convention do now proceed to an informal vote for the temporary capital."

Mr. THACHER. Mr. President, I submit this as a resolution in lieu of it—striking out after "resolved," and inserting:

"At the election held to adopt this Constitution, the electors shall vote for some place for temporary capital of the State; and at the place having the highest number of votes the first Legislature shall assemble, and the permanent location of the State capital may be regulated by law."

Mr. GRAHAM. I move to lay it on the table.

The motion was agreed to.

The original resolution was also laid on the table, on a division—affirmative 27, negative not reported.

Mr. STIARWALT. I move we adjourn.

Mr. MCDOWELL. I hope the gentleman will withdraw his motion. I see on our tables the report of the committee on apportionment.

Mr. STIARWALT. I withdraw the motion.

Mr. PRESTON. There have been only a few copies handed in; not enough to distribute all round.

Mr. STIARWALT. I now renew my motion to adjourn.

[*254] *Mr. PRESTON. In five minutes time there will be enough of them for us all.

Mr. STIARWALT. I withdraw for the gentleman.

A voice. Give them five minutes.

APPORTIONMENT OF REPRESENTATION.

Mr. PRESTON. Mr. President, I submit the following report, in behalf of the committee on apportionment.

The report was read by the Secretary, as follows:

"SECTION 1. Every organized county shall have at least one Representative, and unorganized shall be attached to those that are organized.

SEC. 1. [2.] The apportionment of this State for members of the Legislature shall be made every five years, beginning with the year one thousand eight hundred and fifty, as shall be provided by law.

SEC. 3. Until there shall be a new apportionment, the State shall be divided into Senatorial and Representative districts and the members thereof shall be apportioned among the several districts as follows, viz:

HOUSE OF REPRESENTATIVES.

Districts.	*Counties.*	*Representatives.*
1st	Doniphan	5
2d	Brown	1
3d	Nemaha	1
4th	Marshall, Washington	1
5th	Riley, Clay	2
6th	Pottawatomie	2
7th	Jackson	1
8th	Jefferson	2
9th	Atchison	5

Districts.	*Counties.*	*Representatives.*
10th	Leavenworth	9
11th	Wyandott	1
12th	Johnson	3
13th	Douglas	9
14th	Shawnee	4
15th	Waubonsa	1
16th	Davis	1
17th	Dickinson, Arapahoe	1
18th	Morris	1
19th	Chase, Butler, Hunter	1
20th	Breckenridge	2
21st	Osage	1
22d	Franklin	2
23d	Lykins	3
24th	Linn	3
25th	Anderson	2
26th	Madison	1
27th	Coffey	3
28th	Bourbon	3
30th	Allen	2
31st	Woodson	1
32d	Greenwood, Dorn, Wilson, Godfrey, McGee,	1

SENATE.

Districts.	*Counties.*	*Senators.*
1st	Doniphan	1
2d	Brown and Nemaha	1
3d	Marshall, Washington	1
4th	Riley, Pottawatomie	1
5th	Jackson, Jefferson	1
6th	Atchison	1
7th	Leavenworth	3
8th	Wyandotte	1
9th	Johnson	1
10th	Douglas	2
11th	Shawnee, Waubonsa	2
12th	Dickinson, Arapahoe, Clay	1
13th	Davis, Morris, Chase	1
14th	Breckenride, Osage	1
15th	Franklin, Anderson	1
16th	Lykins	1
17th	Linn	1
18th	Madison, Butler, Hunter, Godfrey, Greenwood	1
19th	Coffey	1
20th	Bourbon, McGee	1
21st	Allen, Woodson, Wilson, Dorn	1"

Mr. MCDOWELL. Mr. President, I suppose it will be in order for me to state (having been on the Committee on Apportionment), that the report of the committee does not meet in any sense my approbation. I think it is unjust and unfair, and gotten up obviously for political purposes. In no sense do I, as a member of that committee, sanction it.

Mr. THACHER. I would like to enquire how he knows this report was got up for political purposes.

Mr. McDOWELL. It shows it upon its face.

Mr. THACHER. He did not meet at all with the committee.

The PRESIDENT. The Chair is of opinion these remarks are not in order.

A VOICE. What is the basis? What number of votes?

[*255] *Mr. PRESTON. 366 for Representatives, a small fraction over. 1,096 for Senators.

Mr. SLOUGH. Mr. President, I propose to offer a resolution with reference to the re-commitment of this report, and I desire to state my reasons for so doing. I submit the following:

"*Resolved*, That the report of the committee on Apportionment be recommitted, and that the members of each district be required to make a return to said committee under oath of the population of their respective districts, in accordance with their best information and belief; and that said committee be instructed to report an apportionment in accordance with said returns."

Mr. SLOUGH. Mr. President, I propose briefly to state my reasons for the introduction of this resolution. We have been endeavoring, from all our sources of information, aided by the passage of a resolution, to obtain reliable information with regard to the population of this Territory. I do not know that any information has been received in answer to his letters by any member of the Convention, and in the absence of the returns of the last election, we have no data upon which to base a fair apportionment of the Territory. A basis might be formed upon a recent vote which we have, but it is known that in any back districts and many counties a fair proportion of voters did not turn out and vote. Such being the case, we cannot from that source obtain such data as would be necessary for our use. It is well known that every member is anxious to have his district as fully represented as possible; and unless the returns made by members are submitted under the solemnity of an oath, those, at least, who are disposed to investigate and make a return as nearly correct as possible, would be placed in a position, that other members who have not, perhaps, so reliable data, might take advantage of circumstances and make an incorrect return to the committee. I am informed there has been considerable variety of opinion even among the delegation from the same counties. I have been informed, also, that the first returns made in the same of those counties have been increased. I have been informed they have made a return in reference to the recent vote on the Constitutional Convention; some in counties where the full vote was not polled, and some where the population has increased this spring. It seems to me that the proper data should be the population to-day, or as nearly as we can approximate that. Therefore I have offered the resolution.

Mr. GRIFFITH. Mr. President, I move to amend by attaching these words: "Provided, that they shall give each organized county at least one representative."

Mr. McDOWELL. Mr. President, I think that population rather than counties should be the predicate of an apportionment, and that an organized county should not be entitled to a representative, unless it has a population sufficient to entitle it. I suppose the object of this whole scheme is to have the people of the Territory in their law-making departments of government; and that object, it seems to me, is best attained—more equally, fairly and justly attained—by arriving at, in the first place, an approximation to the population, selecting some number of the population as a basis, and apportioning accordingly. I think that is fair; I think

that is just, and it seems to me that is the only method by which justice can be done to those counties that have a large population. I offer these suggestions because I think they indicate the fairest scheme for apportionment.

Mr. GRIFFITH. Mr. President, it is no more than justice to organized counties that we give them each a representative. Unless we adopt this amendment, we cannot. It is known that every county has its own peculiar interests to care for; and when one man represents two, there are four counties, he will not represent them all so perfectly. The western counties are rapidly filling up, and if a county should have now but 250 inhabitants, they may have three times that number before election. I think it [*256] *no more than fair to allow each organized county one representative.

Mr. STINSON. Mr. President, I think the argument which the gentleman has adduced applies with no greater force to the sparsely settled counties of our western border than to those on our eastern border. I do not believe there is another county that will increase faster than the one I in part represent. The last census shows that we will have three or four hundred votes more than were shown at the last election. It seems to me the reason of the rule is not in that, at any rate; and as for each county having a representative, it can only be obtained justly by decreasing the ratio of representation, as gentlemen have justly remarked. It is not square miles and acres that are to be represented, but people; and although there may be hundreds of square miles with nothing on the land, it does not work injustice if these square miles are not represented. I shall vote against the amendment.

Mr. THACHER. Mr. President, I think every organized county has district interests that require a representative at least in one branch of the Legislature. In New York there are counties which would not be entitled to a representative by thousands, but every one has a representative in the Legislature. Where you attach two or more counties together you necessarily have to take your representative from one or the other county, and so the interests of one or two counties are completely left in abeyance. We have heard a good deal about the necessity of having every county represented here, and although, as in the case of Wyandotte, one county had got the representation which belonged to another, yet it was insisted that we could give a county which by mistake had been left out, that which it was not entitled to; and now when a proposition comes up to give every county a representative upon the floor of the House of Representatives, it is urged, unsuccessfully I think, that population should be the basis. In other words, if you do not give each county a representative, you sweep it out without any representative at all. Where a representative represents two counties, he in fact only represents one. And that is the reason why I thought Wyandotte should be allowed her representative here, because Leavenworth would not represent them. The only argument then was to my mind that the Leavenworth delegation would look more to the interests of Leavenworth county than to those of Wyandotte. I believe the amendment is a wise and salutary provision, and one which should be adopted. Every organized county ought to have a representative, and if you don't give it one, you disfranchise it.

Mr. MCCLELLAND. "Provided a county has 200 voters." I move to add these words.

Mr. THACHER. There are a great many counties that it is impossible to find out the population of; and if we were to attempt such a thing it

would keep the Convention here for six weeks. If it were not impossible to carry that rule into effect it might be well.

Mr. GRIFFITH. Mr. President, I will simply state that I believe that report to be based upon the principle I here advocate. I presume they have some estimate of the number of voters of these counties, and I do not know whether they would fall under 200—I believe the principle is correct. I do not propose to argue the matter.

The yeas and nays were demanded upon the adoption of the amendment proposed by the gentleman from Jefferson (Mr. McClelland), and being ordered and taken, resulted—yeas 22, nays 26—as follows:

YEAS—Messrs. Arthur, Brown, Barton, Foster, Forman, Greer, Hipple, Hubbard, Houston, Ingalls, Moore, McDowell, McCune, McClelland, Palmer, Parks, Porter, Slough, Stinson, Stiarwalt, J. Wright and Wrigley—22.

NAYS—Messrs. Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, [*257] Dutton, Graham, Griffith, Hutchinson, Hanway, Hoffman, *Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend and Williams—26.

So the amendment was rejected.

The question being on the amendment of the gentleman from Bourbon (Mr. Griffith)—

The yeas and nays were demanded, and being ordered and taken, resulted—yeas 30, nays 18—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hanway, Hutchinson, Hoffman, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Palmer, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend and Williams—30.

NAYS—Messrs. Brown, Barton, Foster, Forman, Hipple, Hubbard, Houston, Ingalls, Moore, McDowell, McCune, McClelland, Parks, Slough, Stinson, Stiarwalt, J. Wright and Wrigley—18.

So the amendment was adopted.

The question recurring upon the resolution as amended—

Mr. GRAHAM. I move to lay the amendment on the table.

On this motion the yeas and nays were demanded, and being ordered and taken, resulted—yeas 13, nays 34—as follows:

YEAS—Messrs. Burnett, Blunt, Crocker, Graham, Hoffman, Kingman, Lillie, Lamb, Porter, Ross, Simpson and Williams—12.

NAYS—Messrs. Arthur, Brown, Barton, Burris, J. Blood, N. C. Blood, Dutton, Foster, Forman, Greer, Griffith, Hipple, Hubbard, Hutchinson, Hanway, Houston, Ingalls, Moore, McDowell, McCune, McClelland, McCullough, Palmer, Parks, Ritchie, Signor, Slough, Stinson, Stiarwalt, Stokes, Thacher, Townsend, J. Wright and Wrigley—34.

So the motion was rejected.

Mr. KINGMAN. I propose to give the reasons for my vote on the journal.

The resolution was then adopted, and the report was accordingly ordered to be recommitted to the Committee on Apportionment.

Mr. MCCLELLAND. I move we adjourn.

The motion was agreed to.

And the Convention adjourned till to-morrow morning at 8 o'clock.

THURSDAY, July 21, 1859.

The Convention met at 8 o'clock, A. M.

Prayer by the Chaplain.

The journal of yesterday was read and authenticated.

PERSONAL.

Mr. HUTCHINSON offered the following:

"WHEREAS, Dr. J. E. Bennett has been guilty of a gross outrage upon a member of this Convention, on account of words spoken in debate upon its floor; therefore,

Resolved, That the courtesy extended to Dr. Bennett of an honorary seat in the Convention, be hereby withdrawn."

Mr. INGALLS. I move its adoption.

Mr. SLOUGH. I move to refer the resolution to a select committee of five members. It seems to me that this is a summary proceeding. The proper course is, that the facts should be first presented to the Convention. The only proper way is to refer the matter, for inquiry into the facts.

Mr. INGALLS. It seems to me, Mr. President, that the facts are already wholly before the Convention. And as far as the question of courtesy towards Dr. Bennett is concerned, he has certainly himself violated every principle of courtesy, by the manner in which he appeared before the body last Monday, as well as in the manner in which he has conducted himself towards one of the members of the Convention, as rehearsed in the preamble to the resolution. I see no occasion for reference.

Mr. SLOUGH. Mr. President, I would ask every gentleman who was not an eye-witness of the matter complained of, how they know anything about it? We are not presumed here to know anything about such a case until we are informed in an official manner. Doubtless there are facts in the case that even an eye-witness might not be familiar with. It seems to me that in a case where character is concerned, we should proceed with caution. And it is a plea of sheer justice, that the evidence should be before the house before judgment is taken and a penalty pronounced. I [*258] *demand the yeas and nays on my motion to refer.

Mr. STINSON. Mr. President, I desire to say, that in a question involving the privilege of a member of this house, I disclaim all partisan feeling and party prejudice. If an outrage has been committed, such as I might be led now to believe, I will cordially approve any action the Convention may take in maintaining its dignity. But I insist that, in an important matter like this, we should not take action before being informed what it is taken for. I speak not as a partisan, but as a member of the Convention, jealous of its dignity and desirous of seeing it maintained. And for my part, I cannot vote understandingly upon this resolution. I do not know the facts, and all I ask is contemplated in the motion of my colleague (Mr. Slough) that the facts shall come here in an authentic form, in order that we may know the foundation for the proposed action.

Mr. BLUNT. Mr. President, being an eye-witness to this occurrence, which took place last evening, as far as I am concerned, individually, I am prepared to vote for the resolution to withdraw the courtesies which the Convention have extended to Dr. Bennett. I presume, however, that the facts in the case are not generally known. Perhaps some know nothing at all of the occurrence. Therefore I think there would be a propriety

in appointing a committee of reference, and let them investigate and bring the matter before the house in order. I shall vote for the reference.

Mr. HUTCHINSON. Mr. President, I can say, with the gentleman from Leavenworth (Mr. Stinson) that I can treat this matter entirely outside of partisan feeling. But I believe it is known to every member, that my colleague (Mr. Thacher) has received a gross insult at the hands of Dr. Bennett. Now, all I ask is merely to maintain the dignity of the body, by a decision upon full knowledge of the facts. I am opposed to giving the matter any large notoriety and importance above what it deserves, and for this reason I am opposed to the reference. I think all the facts can be obtained in five minutes, by calling on gentlemen who were eye-witnesses, and that it would be wasting time and giving it undeserved notoriety to go any further with the case.

Mr. THACHER. Mr. President, it has been against my remonstrance that this has been introduced. So far as I am concerned, I wish the Convention to take no notice of it. It is a matter that does not concern or jostle me in the least.

The yeas and nays were then taken, resulting—yeas 26, nays 20—as follows:

YEAS—Messrs. Blunt, Brown, Barton, Foster, Forman, Greer, Hipple, Hubbard, Hanway, Hoffman, Moore, McDowell, McCune, McClelland, Preston, Palmer, Parks, Ritchie, Ross, Signor, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—26.

NAYS—Messrs. Arthur, Burnett, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hutchinson, Houston, Ingalls, Lillie, Lamb, Middleton, McCullough, Stokes, Simpson, Townsend, Williams—20.

So the resolution was referred, and the President appointed the following committee thereupon: Messrs. Slough, McClelland, J. Blood, Ingalls and McCullough.

Mr. SLOUGH was excused, and Mr. Stinson appointed in his place.

Mr. INGALLS. Mr. President, I desire to give notice to the committee on Phraseology and Arrangement, of three or four reports of articles referred to them by the Convention, which have just come in from the printer, and have not yet been acted upon by them, and to say that there will be a meeting of that committee immediately after the recess.

Mr. SLOUGH. Mr. President, for the purpose of giving that committee an opportunity to prepare matter to be reported to the Convention, I move that we take a recess for one hour.

The motion was agreed to, and the Convention took the recess accordingly.

[*259] *The President resumed the chair at the expiration of the recess.

Mr. MCDOWELL. Mr. President, is there any business before the Convention?

The CHAIR understands that a report will be presented in a very short time from the committee on Phraseology and Arrangement.

ORDINANCE.

Mr. J. BLOOD, from the committee on ordinance, submitted the following report:

"WHEREAS, the government of the United States is the proprietor of a large proportion of the lands included in the limits of the State of Kansas as prescribed by this Constitution; and whereas, the State of Kansas will possess the undoubted right to tax said lands for the purpose of sustaining a State government and for other and legitimate purposes connected with her existence as a State; now, therefore, be it ordained by the people of Kansas, that the right of the State of Kansas as aforesaid to tax such lands shall be and is relinquished forever; neither will the said State of Kansas, without the consent of Congress, interfere with the title of the United States to said lands, or with any regulation which Congress may prescribe in relation thereto, or tax nonresidents greater than residents, *Provided* always, that the conditions following be accepted and agreed to by Congress:

SECTION 1. The sections numbered sixteen and thirty-six in every township in said State, including Indian reserves and trust lands, and when either of said sections, or any part thereof, has been sold, or otherwise disposed of or appropriated, other lands equivalent thereto in value, as nearly contiguous thereto as possible, shall be granted to said State exclusively for the use of common schools.

SEC. 2. That seventy-two sections, or two entire townships of land shall be set apart and granted to said State, for the support and maintenance of a State University.

SEC. 3. That all the swamp lands in said State shall be set apart and granted to said State for the use exclusively of common schools.

SEC. 4. That thirty-six sections or one entire township, be set apart and granted to said State for the purpose of erecting suitable public buildings for the same.

SEC. 5. That seventy-two sections or two entire townships shall be set apart and granted for the building, support and maintenance of charitable and benevolent institutions in said State.

SEC. 6. That all salt springs, not exceeding twelve in number, with six sections of land adjacent thereto, shall be set apart and granted to said State, to be used and disposed of for works of public improvement, as the Legislature of said State may by law prescribe.

SEC. 7. That all gold, silver, lead, copper and other valuable mines, together with the lands necessary to the full occupation and use of said mines, shall be set apart and granted to said State for works of public improvement, to be used and disposed of as the Legislature of said State may by law prescribe.

SEC. 8. That five per centum of the proceeds of the sale of the public lands sold in Kansas, from and after the admission of said State into the Union, shall be paid to the State for the purpose of creating a common school fund—the principal to be held sacred, and the interest to be applied to the education of the children of Kansas.

SEC. 9. That nothing contained herein shall be deemed a waiver of the right of the State of Kansas to the five hundred thousand acres of land to which said State is entitled under the act of Congress entitled "An act to appropriate the proceeds of the sales of public lands and great pre-emption rights," approved September 4th, 1841, and that said land be granted and set apart to said State, to be used and disposed of by the Legislature of said State in accordance with the provisions of said law.

SEC. 10. That two hundred entire townships of land in said State shall [*260] be granted *and set apart by the government of the United States to said State, for the purpose of aiding in the construction of railroads and other internal improvements.

SEC. 11. That the lands hereinbefore mentioned shall be selected in such manner as may be prescribed by law; such selection to be subject always to the approval of the Commissioner of the general land office of the United States."

The report lies on the table, under the rules.

MILITIA—COUNTY AND TOWNSHIP ORGANIZATION.

Mr. INGALLS. Mr. President, in behalf of the committee on phraseology and arrangement, I submit the following:

The committee on phraseology and arrangement having had under consideration the articles on militia and county and township organizations, respectfully submit the following

REPORT.

In the article on militia, in schedule 1st, 6th line, strike out the word "such."

In section 2d in second line, strike out the words "by law"; in fourth line, change the word "they" to "it."

Section 3d in second line, strike out the word "be."

Transpose section 4th so as to read as follows, viz: "The Governor shall be commander-in-chief, and shall have power to call out the militia to execute the laws, to suppress insurrection, and to repel invasion."

In the article on county and township organization, section 1st, make verbal alterations so as to read as follows: "The Legislature shall provide for organizing new counties, locating county seats and changing county lines; but no county seat shall be changed without the consent of a majority of the electors of the county, nor any county organized, nor the lines of any county changed so as to include an area of less than four hundred and thirty-two square miles."

SEC. 2. "The Legislature shall provide for such county and township officers as may be necessary."

SEC. 3. "All county officers shall hold their offices for the term of two years, and until their successors shall be qualified, but no person shall hold the office of sheriff or county treasurer for more than two consecutive terms."

In section 4 strike out the word "for" in third line.

In section 5 strike out first line and substitute word "all."

ORDINANCE.

Mr. STINSON. Mr. President, I would suggest, that it is desirable to place all the Articles as speedily as possible in the hands of the committee on Phraseology. Therefore, as the report of the committee on Ordinance is now before us, I move that the Convention now take up the consideration of that report.

The motion was agreed to.

Accordingly, the Convention resolved into committee of the whole—Mr. Palmer in the Chair—and took up the Article reported by the committee on Ordinance.

On motion by Mr. SLOUGH, it was considered by sections, and the first sentence [section] was read by the Secretary, to wit:

"WHEREAS the Government of the United States is the proprietor of a large proportion of the Lands included in the limits of the State of Kansas as prescribed by this Constitution, and whereas the State of Kansas

will possess the undoubted right to tax said lands for the purpose of sustaining a State Government, and for other and legitimate purposes connected with her existence as a State; now therefore be it ordained by the people of Kansas, that the right of the State of Kansas as aforesaid to tax such lands shall be and is relinquished forever, neither will the said State of Kansas, without the consent of Congress, interfere with the title of the United States to the said lands, or with any regulation which Congress may prescribe in relation thereto, or tax non-residents greater than resi- [*261] dents, *Provided* always, that the conditions *following be accepted and agreed to by Congress:"

On motion by Mr. STINSON, the first syllable in the word "proportion," in the first line, was stricken out; and so the sentence passed.

The first section was read, viz:

"SEC. 1. That sections numbered sixteen and thirty-six in every township in said State, including Indian Reserves, and Trust Lands, and when either of said sections, or any part thereof, has been sold, or otherwise disposed of or appropriated, other lands equivalent thereto in value, as nearly contiguous thereto as possible shall be granted to said State exclusively for the use of Common Schools."

On motion by Mr. INGALLS, the surplus word "thereto" was stricken out.

Mr. THACHER. Mr. Chairman, I would ask whether we would not be entitled to the sixteenth and thirty-sixth sections in every township, if the words "including Indian Reserves and Trust Lands" were omitted? If we should, then I think it would be better to omit them; if not, better to include them.

Mr. J. BLOOD. I think, without the words it would leave the matter in doubt. They were inserted to prevent any doubt in the matter.

Mr. STINSON. The Committee had that matter under special consideration.

Mr. THACHER. It occurs to me, Mr. Chairman, that you had a sweeping clause by which Congress grants other lands, where those sixteenth sections are disposed of. I make no motion if it is thought better for the words to be there.

Mr. STINSON. Would it not be better to strike out the first "thereto."

Mr. J. BLOOD. The sections we might get on the prairies would not be worth fifty cents an acre, whilst we sometimes relinquish land worth ten dollars an acre. I do not propose to relinquish valuable lands which we have a right to under the organic act, and accept of other lands not of equal value.

Mr. PRESIDENT WINCHELL. Mr. Chairman, I have an amendment in the form of a substitute, which merely changes the arrangement of the words. It covers just the same ground, I apprehend, as the original:

"First. That sections sixteen and thirty-six in every township in said State, including Indian Reservations and Trust lands, shall be granted to the State exclusively for the use of common schools; and where either of said sections, or any part thereof, has been sold, or otherwise disposed of or appropriated, other lands of equal value, as nearly contiguous thereto as possible, shall be granted to the State for said purpose."

Mr. MCDOWELL. Would not the committee on Phraseology have a right to make these transpositions?

Mr. WINCHELL. I opine they would. But at the same time it would be only fair, if they [we] would do what they [we] could to make these matters right as we pass along.

Mr. STINSON. If there is ambiguity, then I would be in favor of the substitute. To me it seems that there might be several words saved here, and the same idea expressed.

Mr. WINCHELL. The object is to express the sense of the report. I offer the substitute merely as being a better arrangement of the language.

The substitute was adopted and so the section was passed.

Sections 2, 3, 4, 5, 6, 7, were read and passed without amendment, viz:

"SEC. 2. That seventy-two sections, or two entire townships of land shall be set apart and granted to said State, for the support and maintenance of a State University.

SEC. 3. That all the swamp lands in said State shall be set apart and granted to said State for the use exclusively of Common Schools.

SEC. 4. That thirty-six sections or one entire township, be set apart and [*262] granted to said *state for the purpose of erecting suitable public buildings for the same.

SEC. 5. That seventy-two sections or two entire townships shall be set apart and granted for the building, support and maintenance of charitable and benevolent institutions in said State.

SEC. 6. That all salt springs not exceeding twelve in number, with six sections of land adjacent thereto, shall be set apart and granted to said State to be used and disposed of for works of public improvement, as the Legislature of said State may by law prescribe.

SEC. 7. That all gold, silver, lead, copper, and other valuable mines, together with the lands necessary to the full occupation and use of said mines shall be set apart and granted to said State for works of public improvement, to be used and disposed of as the Legislature of said State may by law prescribe."

Section 8 was read, viz:

"SEC. 8. That five per centum of the proceeds of the sale of public lands sold in Kansas from and after the admission of said State into the Union, shall be paid to the State for the purpose of creating a Common School fund—the principal to be held sacred, and the interest to be applied to the education of the children of Kansas."

Mr. BURRIS. Mr. Chairman, I move to amend in the twenty-seventh line, by striking out the word "from," and inserting the word "before," so that it will read: "five per centum of the proceeds of the sales of the public lands sold in Kansas before and after the admission of the said State," &c. I believe that under this section, as it now stands, the State of Kansas would be cut off from a very large amount of this five per cent., to which she is justly entitled, and which new States usually receive. For if she does not receive this per cent on lands sold before her admission, she will receive but little, because the larger portion of the best lands will no doubt be sold before her admission. I believe that Iowa received her five per cent on the lands sold there before as well as after her admission. That is my impression: and I have a distinct recollection that it was claimed.

Mr. STINSON. Mr. Chairman, I think that, on examination, the gentleman will find the precedents against him, and that the five per cents are not to be awarded until after the admission of the State.

MR. THACHER. Mr. Chairman, under this section you only give five per cent on the lands sold for cash. The gentleman from Johnson will remember that in Iowa, a large portion of the public lands were taken by the location of bounty land warrants, and that the State received nothing for them. I think we ought to have a provision to secure us against that. Governor Lowe insisted that that was the contract between Iowa and the United States—that she should have five per cent. on all the public lands sold after her admission, and that by the bounty land warrants coming in, the State was wronged out of a large amount of money. I move, sir, to insert after the word "sold," these words: "or located as bounty land."

MR. WRIGLEY. I would suggest the propriety of using the word "entered," instead of "located."

MR. THACHER. Mr. Chairman, I am not satisfied with the wording, and I hope some gentleman will suggest something better. I accept the modification.

The latter amendment was adopted, and so the section was passed.

Section 9 was read, viz:

"SEC. 9. That nothing herein contained shall be deemed a waiver of the right of the State of Kansas to the Five Hundred Thousand acres of land to which said State is entitled under the Act of Congress entitled "An Act to appropriate the proceeds of the sales of the public lands and grant pre-[*263] emption rights," approved September 5th, 1841, and *that said land be granted and set apart to said State to be used and disposed of by the Legislature of said State in accordance with the provisions of said law."

MR. PARKS. Mr. Chairman, the law here referred to was approved on the 4th of September, 1841—not the 5th.

The section was corrected accordingly, and so passed.

Section 10 was read, viz:

"SEC. 10. That two hundred entire townships of land in said State shall be granted and set apart by the Government of the United States to said State for the purpose of aiding in the construction of railroads, and other internal improvements."

MR. PRESIDENT WINCHELL. Mr. Chairman, I would enquire whether there should not be some provision to secure an equal amount of land, in case these two hundred townships can not be procured?

MR. J. BLOOD. I have just prepared an amendment to meet that. I propose to insert in the 25th line, after the word "township," these words: "or four millions six hundred and eight thousand acres." That amount of land to be granted on the admission of the State. I believe all the western States have received a grant from Congress equal, if not greater than the amount proposed in this ordinance.

MR. STINSON. I would strike out the word "entire."

These amendments were agreed to, and so the section passed.

MR. SLOUGH submitted the following:

"SEC. ——. That five hundred thousand acres of land in the State shall be granted and set apart by the government of the United States for the payment of claims, proven before the Board of Commissioners appointed under "An act to provide for the Adjustment and Payment of Claims," offered February 7, 1859, by the Governor of the Territory of Kansas."

MR. INGALLS. Mr. Chairman, I would inquire whether the report of the Commissioners under the act of February 7, is officially before this body. If not, I would suggest the propriety of waiting till it is before you.

Mr. THACHER. I think the motion is premature. It should go into the memorial to Congress—not as a condition of our admission.

Mr. SLOUGH. I thought this was the most appropriate place to come in. I am informed by one of the Board of Commissioners—the gentleman from Brown (Mr. Kingman) that the sum of their awards amount to about $412,000, and I inserted five hundred thousand acres, believing that would be sufficient to cover all the claims and expenses of adjustment. It seems to me clearly, that these claims ought to be paid by the United States, and not saddled upon the people of Kansas.

Mr. THACHER. I also want a hundred thousand acres to improve the navigation of the Kaw river. But neither this, nor these claims should be made a condition precedent to the admission of Kansas; and if we put them into the ordinance we say to Congress virtually, that unless these grants are made we will stand out of the Union. The proper place for these applications is in the memorial, so that, if Congress reject the memorial, they can still admit us with the Constitution and this ordinance which is a part of the Constitution. No man is more willing and anxious to see every one of those honest claimants paid than I am. I believe Col. Slough and myself are agreed on that, entirely. But I do believe it would be an unwise endangering of the safety and success of the Constitution to insert anything of this sort in the ordinance. It is not to be disguised, sir, that there is considerable feeling in the Territory on this question, and many strange stories are rife in connection with it, and all of them will go before Congress. Let us then send up our application for these claims in the memorial. Thus we shall not place ourselves in the unpleasant position of saying to Congress, unless you make these appropriations we will turn [*264] our backs and refuse to come into the Union. If, then, we *are really anxious to throw off the Territorial vassalage we have endured so long—if we are really desirous of the advantages of State sovereignty, I beg of gentlemen not to add anything here that will have a tendency to defeat this object.

Mr. SLOUGH. Mr. Chairman, I do not propose to say but a single word. If a committee on memorial had been raised by the Convention, to which such matters as these might have been referred, I should never have introduced this section. But no such a committee has been raised, and this is the first intimation that I have heard about memorializing Congress on this subject. And if it is the desire of the Convention to memorialize Congress on this and kindred subjects, I would suggest that such a committee be raised.

Mr. THACHER. I did not know but what there was a committee on that subject.

Mr. SLOUGH. There is no such committee. But I shall not consent either by my vote or influence here, that the payment of these claims may be palmed upon the people of the Territory or of the new State of Kansas. I now ask leave to withdraw the proposition, for the purpose, at the proper time, of referring it to the Committee on Memorial.

Mr. J. BLOOD. Mr. Chairman, the Committee on Ordinance considered the matter of these claims, and there were objections to inserting such a section in this ordinance. But the committee considered that it would be proper for them to report a memorial or resolution, asking Congress to provide for the payment of the awards to these claimants, together with all the other indebtedness of the Territory; and to ask for anything else that might be thought best. But it was thought not best to put these

things into the ordinance. If we ask for these things in a memorial, and they should not be granted, still we might not be embarrassed by them as to our admission and the organization of a State government; and the matter would still be open for future negotiation with Congress. For these reasons it was thought best not to include this matter in the ordinance. And another reason was that the report of the Commissioners was not before us, and therefore were not able to fix upon the exact amount of these claims. And it was also considered that we would have an opportunity to make another report.

Mr. SLOUGH. With this explanation of the chairman of the Committee on Ordinance, it will not be necessary to insist on this any further now. But as this matter had been referred to that committee some time ago, in a resolution offered by myself, I thought they had perhaps determined not to report it.

Mr. J. BLOOD. The gentleman will recollect that ours is the Committee on Ordinance *and the Public Debt*, and that this is simply their report on ordinance—leaving the matter of the public debt for a future report.

Section 11 was then read and passed, viz:

"SEC. 11. That the lands hereinbefore mentioned shall be selected in such manner as may be prescribed by law; such selection to be subject always to the approval of the Commissioner of the General Land Office of the United States."

Mr. HOUSTON submitted the following as an additional section:

"SEC. 12. That twelve sections of land be granted to the State for the improvement of the Kansas river."

Mr. HOUSTON. I believe we can get that. We have asked here for nothing but what it is ordinary for Congress to grant to a new State, and we may secure this as well as not. It is not my purpose to press this with a speech, but simply to call attention to the fact. It is well known that Congress pays annually large amounts of money for transportations to Fort Riley. It is also well known that now whilst there is no railroad communication in that direction, Congress must feel that there are special claims and reasons for doing something toward improving the navigation of [*265] the Kaw river, in connection with a system of internal im*provements reaching towards the mountains. It is also well known that such an improvement would be valuable to the general government itself. I hold, therefore, that Congress will not hesitate about this grant. They will see that the government will make money by the operation. That will be a means of extending the settlements—of filling up and selling more lands, and of facilitating the transportation of military stores. I think, sir, if gentlemen will ponder these things they will see that the matter of this grant will not hinder our admission for a single moment. These are weighty and important considerations to be urged in its favor.

Mr. CROCKER proposed to strike out the "twelve sections," and insert "twelve acres."

Mr. THACHER proposed "one hundred sections."

Mr. J. BLOOD. Mr. Chairman, I feel the importance of getting up some proposition by which the navigation of the Kaw river may be improved. I feel that this thing is very important to the whole State. But I think the amount proposed in the section is entirely inefficient [insufficient]. That a sufficient amount of land will be obtained for this purpose, I have no doubt. And in addition to this, I have to say, that it has been agreed upon by our committee to memorialize Congress for a separate grant of land for

that purpose. If we do not obtain it, then we may appropriate the lands belonging to the State to that purpose.

Mr. HOUSTON. Mr. Chairman, I am quite well aware that the idea of improving our western waters is a very unpopular one in Congress. I know that they have not favored the improvement of the navigation of our rivers heretofore. They have been almost sure to be defeated. Every effort to improve the upper Mississippi has failed; and therefore I determined to put in for a reasonable amount. With reference to memorializing Congress for this, I think that would be to defeat the whole thing; and so when they come to decide on the railroad grants, they will not have a foot of land for the Kaw river. I think, sir, this is an opportunity in which Congress may be successfully called upon to do something, without raising the Constitutional question against us. Whereas, if it were a specific effort, by way of memorial, it would certainly come under all the fatal questions in connection with the improvement of western streams.

Mr. RITCHIE. Mr. Chairman, at the proper time I shall be in favor of such an appropriation; but I deem this not the proper time, and therefore I move to lay the section on the table.

The motion was agreed to.

The committee now rose and the chairman reported the ordinance article, with the amendments, to the Convention, recommending concurrence.

Mr. STINSON. Mr. President, I move that the ordinance article, as reported with the amendments from the Committee of the Whole, be adopted as a whole.

The motion was adopted; and then, on the further motion of Mr. STINSON, it was ordered to be printed and referred to the committee on Phraseology and Arrangement.

Mr. ROSS. Mr. President, is there anything before the Convention?

The PRESIDENT. There is matter reported from the committee on Phraseology and Arrangement.

Mr. ROSS. I move that the Convention take a recess till 3 o'clock, to give the committee on Apportionment time to perfect their report.

And accordingly the Convention took a recess.

AFTERNOON SESSION.

The President called the Convention to order at 3 o'clock.

DR. J. E. BENNETT.

Mr. STINSON. Mr. President, the committee to whom was referred the resolution of the gentleman from Douglas (Mr. Hutchinson) beg leave to submit the following report:

[*266] "The special committee to whom was referred *the resolution withdrawing the honorary seat tendered by this Convention to Dr. J. E. Bennett, beg leave to report that upon an examination of the Journal of this Convention they find that Dr. Bennett, at the time of the alleged outrage, was not in any way entitled to an honorary seat in this Convention."

The report was concurred in.

Mr. SLOUGH. I move that the report be filed.

The motion was agreed to.

THE MILITIA.

Mr. SLOUGH. Mr. President, I move that we take up the report of the committee on Phraseology and Arrangement on the Militia.

Mr. MCDOWELL. I would enquire whether the special committee to whom was referred the question as to the position of Articles in the hands of the revision committee have made a report?

The PRESIDENT. The committee have not reported. The gentleman from Douglas (Mr. Thacher) is chairman.

Mr. THACHER. The committee have agreed upon a report and whenever occasion seems to require, will report it.

Mr. SLOUGH. Mr. President, is any further motion necessary?

The PRESIDENT. The report of the committee on Phraseology and Arrangement on the Article on Militia is before the Convention for any action.

Mr. SLOUGH. I call for the reading of that report by sections.

The report was read and the following were the several amendments agreed to:

In section 1 strike out the word "such" where it occurs the second time.

In section 2 strike out the words "by law" and change the word "they" to "it."

In section 3 strike out the word "be" where it occurs the second time.

Transpose section 4, so that it will read as follows:

"SEC. 4. The Governor shall be Commander-in-Chief, and shall have power to call out the Militia to execute the laws, to suppress insurrection and to repel invasion."

Mr. HOUSTON. Mr. President, I was about preferring a substitute in lieu of the second section.

The PRESIDENT. In the opinion of the Chair no amendment of any section will be in order without first reconsidering the section.

Mr. SLOUGH. What is the proposed amendment?

Mr. HOUSTON. As we have passed it, section second reads:

"SEC. 2. The Legislature shall provide for organizing, equipping and disciplining the Militia in such manner as it shall deem expedient—not incompatible with the laws of the United States."

"SEC. 2. The Legislature shall provide for the election and discipline of a skeleton corps of military officers, but the people of the State shall not be compelled to do military duty, except in those cases specifically provided for by law."

Mr. KINGMAN. Did I understand the reading—"a corps of skeletons?

Mr. HOUSTON. I will leave out the word skeleton if it is particularly offensive. I will make but a single remark. The proposition laid down is, that the Legislature shall provide by law for a militia organization, involving, of course, a great deal of expense and time, and every man knows the whole system of training is a perfect farce. There never was a greater farce. For that reason I think it would be better for us to simply provide for the proposed corps of officers.

Mr. SLOUGH. Mr. President, I rise to a point of order. I believe there is no motion before the Convention.

The PRESIDENT. The motion is to adopt the entire article.

Mr. STINSON. I would state, in explanation of the remark of Mr. Kingman, made upon hearing it suggested that a corps of skeletons [*267] *were to be organized, that visions of military ambition began to run through the gentleman's brain.

The Article on Militia, as amended by the committee on Phraseology and Arrangement, was adopted.

Mr. SLOUGH. Mr. President, although this has been reported from the committee on Phraseology and Arrangement, I think it would be proper to recommit for the purpose of Arrangement. For that purpose I will offer the following resolution:

"*Resolved*, That after Articles have been adopted by the Convention, that they be referred to the committee on Phraseology and Arrangement for Arrangement and Engrossment."

Mr. ROSS. I would ask what we are to understand by the word "engrossment"—whether it is the usual form or otherwise?

Mr. SLOUGH. It seems to me it ought to constitute the original instrument that will be signed by members of the Convention. That is the idea contemplated. It is an enrollment, properly. I will insert the word "enrollment" instead of "engrossment."

The PRESIDENT. I suppose that is intended to apply to the written copy as a whole.

Mr. SLOUGH. Yes, sir.

The PRESIDENT. The resolution is adopted.

COUNTY AND TOWNSHIP ORGANIZATION.

Mr. SLOUGH. Mr. President, there is another report before the Convention, I believe; the report from the committee on Phraseology and Arrangement on the report of the Committee on County and Township organization. I move that be taken.

The motion was agreed to.

The following amendment of the committee was read.

"In section 1 make verbal alterations so as to read:

" 'SECTION 1. The Legislature shall provide for organizing new counties, locating county seats, and changing county lines, but no county seat shall be changed without the consent of a majority of the electors of the county; nor organize a new county, nor change the lines of any county organized so as to include an area of less than four hundred and thirty-two square miles.' "

Mr. STINSON. Mr. President, I move to strike out that portion referring to "the area of not less than 432 square miles." That looks like one of the restrictions we have been crying out against.

Mr. SLOUGH. I move to lay the motion on the table.

This motion was agreed to.

The amendment of the committee was then adopted.

The following amendment of the committee was adopted:

"In section 2 make verbal alterations so as to read:

"SEC. 2. The Legislature shall provide for such county and township officers as may be necessary."

The Committee's amendments to section 3 was read as follows:

"In section 2 [3] make verbal alterations so as to read:

"SEC. 3. All county officers shall hold their offices for the term of two years and until their successors shall be qualified, but no person shall hold the office of Sheriff or county Treasurer for more than two consecutive terms."

Mr. KINGMAN. In fixing the term of office I see it is fixed for two years.

The PRESIDENT. The Chair understands the section to embrace the intent of the original section.

The Committee amendment was adopted.

The following committee amendments were then adopted:

"In section 4 strike out the word 'for.' "

"In section 5 strike out the words 'Justices of the Peace and' and insert 'All.' "

The Article on County and Township Organization, as amended by the [*268] committee on Phra*seology and Arrangement, was then adopted and recommitted for enrollment under the rule.

CORPORATIONS AND BANKS.

Mr. INGALLS. Mr. President, as chairman of the committee on Phraseology and Arrangement, I beg leave to submit the following report:

The committee on Phraseology and Arrangement having had under consideration the Articles on "Corporations" and "Banking and Currency," respectfully submit the following report:

"In section 1, line 3, strike out "formed" and insert "created."

In line 4 strike out "from time to time," and in line 5 "altered or" and add after the words "amended or repealed."

For section 2 read as follows:

Dues from corporations shall be secured by individual liability of the stockholders to an additional amount equal to the stock owned by each stockholder, and such other means as shall be provided by law, but such individual liability shall not apply to railroad corporations or corporations for religious or charitable purposes.

In section 3 read "the title to all property of religious corporations shall vest in Trustees, whose election shall be by the members of such corporations."

In section 5, last line but one, transfer "so" and place it before "restricted."

In section 6, line 2, strike out "be construed to." In line 4 strike out "any of the."

Strike out all after "corporations" in line 6 and read "may sue and be sued in their corporate names."

Change title of Article on Banking and Currency to "Banks and Currency."

In section 2, line 1, strike out the word "general" and punctuate differently.

In section 3, line 6, strike out "an."

Section 4, lines 1 and 2, change "bank notes issued as a circulating medium" and read "circulating notes." In line 4 strike out "bank" and read "such."

In section 5, line 2, strike out "bank or."

In section 6 transpose "officers and offices" in line 2, and in line 5 strike the word "bank" and read "circulating."

Strike out section 7. If recommendation not adopted strike out in line 2 the word "bills" and insert "circulating notes."

In section 8 strike out entire section and insert: "No banking law shall be in force until after its submission and ratification by a popular vote at some general election." If recommendation not adopted, in line 1 strike out "such general" and in line 2 "any force or effect" and insert in lieu of the last "be in force." In line 5 strike out the word "been."

For section 9 read: "Any banking law may be amended or repealed."

The PRESIDENT. The Chair believes that the amendment will be in order without a reconsideration of the section adopted, except such amendments as have been reported by the committee on Phraseology.

Mr. BLUNT. I move that it be reconsidered.

Mr. KINGMAN. There is a difference of opinion as to whether an amendment has not been adopted which is not in it.

Mr. THACHER. In committee of the whole a clause was stricken out and in Convention it was reinstated. The words were, "irrespective of any benefit from any improvement proposed by such corporations."

Mr. BLUNT. That is the amendment I was proposing to offer.

The PRESIDENT. The Chair would state that the next morning, when the journal was read, in connection with the section so amended, I arose and called the attention of the House to it.

The PRESIDENT. The Chair has a recollection of something of the sort.

Mr. SLOUGH. Then the question comes in this shape: The recommendation of the committee is to strike out. I move that portion of the report be rejected.

[*269] Mr. BLUNT. I don't know that I understand *the exact effect of the vote to be taken on this motion.

The PRESIDENT. The effect will be to reinstate the clause which was stricken out in committee of the whole, and reinstated in Convention.

Mr. BLUNT. That is what I desire.

The motion was agreed to.

The section as amended was then adopted.

The committee's amendments to sections 5 and 6 were then read and adopted.

The Article on Corporations was then adopted as amended: and recommitted to the committee on phraseology and arrangement, for arrangement and enrollment.

BANKING AND CURRENCY.

The amendments of the committee on phraseology and arrangement, to the report of the committee on Corporations and Banking, entitled, Banking and Currency, were then considered.

The amendments to sections 1 and 2 were read and adopted.

The amendment to section 3 was read.

Mr. MCDOWELL. Mr. President, before the Convention proceeds to the consideration of the third section, I would like to move a reconsideration of the second section, so as to amend it in regard to the character of the collateral securities to be deposited with the Auditor of State. My object in asking a reconsideration is to strike out the words "interest paying bonds of the several States," and insert "interest paying bonds of the State of Kansas," or of the United States, &c.

Mr. STINSON. I move to reconsider the section.

On this motion the yeas and nays were demanded, and being ordered and taken, resulted—yeas 22, nays 24—as follows:

YEAS—Messrs. Blunt, Brown, Barton, Foster, Greer, Hipple, Hubbard, Hutchinson, Houston, Kingman, Moore, McDowell, McCune, McClelland, McCullough, Parks, Stinson, Slough, Stiarwalt, Simpson, J. Wright, Wrigley—22.

NAYS—Messrs. Burnett, Burris, J. Blood, N. C. Blood, Dutton, Forman, Graham, Griffith, Hanway, Hoffman, Ingalls, Lillie, Lamb, Middleton, Preston, Palmer, Porter, Ritchie, Signor, Stokes, Thacher, Townsend, T. S. Wright, Williams—24.

So the motion was rejected.

The committee's amendment to section 3 was adopted.

The committee's amendments to sections 4, 5 and 6 were read and adopted.

Mr. PRESTON. Mr. President, would it be in order to move a reconsideration of the seventh section?

The PRESIDENT. The committee have reported to strike it out, which will obviate the necessity of a reconsideration.

Mr. THACHER. Mr. President, I wish to urge one thing in favor of supporting the report of the committee, and that is, in Kansas we shall have notes of a less denomination than five dollars from all the different banks of the Union, and it seems hard to impose a restriction upon our banks when we do not upon foreign banks—we thus tax our own banks for the benefit of foreign banks.

Mr. KINGMAN. Mr. President, I represent a very respectable community who are averse to amendments, and my reasons are these: small bank notes drive out of the country our change. They pass into the hands of small dealers, in payment for labor and in exchange for the small commodities of a large class of people who know little or nothing of the genuineness of bills. If we keep our banks from issuing small notes, they will regulate the currency. A half a dozen leading business men can drive all these small issues out of Kansas.

Mr. J. BLOOD. Mr. President, my opinion of the effect of this restriction is different from that contemplated by the gentleman from Brown (Mr. Kingman). Our banks would supply themselves with the small notes of foreign banks, perhaps in exchange for their own, and they would [*270] become interested *in the circulation of these small notes. We are not driving out small notes from circulation by such a restriction. We are simply preventing the issue of small notes by our own banks, and supplying their place by foreign bills. I think the effect of this will be injurious to our banks and to the people. I am in favor of the report of the committee.

Mr. PRESTON. Mr. President, if, by adopting this section, we could throw out of circulation in Kansas, all small notes, I would favor it remaining as it is. I believe experience teaches that it does not obviate the difficulty which the gentleman from Brown (Mr. Kingman) thinks will be the effect of allowing foreign small notes to be circulated. In Ohio, there is a law prohibiting the issue of bank notes of a less denomination than five dollars, but this does not prevent the circulation of small notes; the State is flooded with small notes from Kentucky, Indiana, and other States. The same number are in circulation as though they were issued by the

banks of Ohio. I would rather have our own than foreign paper; and so, I shall go in favor of the recommendation of the committee.

Mr. THACHER. Mr. President, Pennsylvania has tried this very system, and the result is they never can carry into execution their law against the circulation of foreign bank bills. Men are not apt to refuse a dollar for anything, and the result is, instead of placing bills in the hands of your laboring men with which they are acquainted, you have, in place of them, bills they know nothing at all about. We have ones, twos and threes of Indiana, Illinois, Wisconsin, and every State east of this, except perhaps Missouri; and the only effect of this restriction is, to keep our own ones, twos and threes from circulating, and allowing bills of foreign banks to be circulated here. If that is the object, keep it in; but if it is desirable to give circulation to Kansas banks, then we ought to strike out this section. It is a tax upon our own banks—if gentlemen are in favor of it, let us vote for it, but if opposed to such an imposition, they should vote to strike it out.

Mr. GRIFFITH. Mr. President, I have no fear that it will be as represented by the gentleman from Douglas (Mr. Thacher). In the State of Missouri, as far as my knowledge extends, I have never had a one or two dollar bill offered me; nor in Kansas neither, except in this part of the country. The object of restricting the circulation of notes of a less denomination than five dollars is, that we will not drive off this gold and silver into the coffers of the banks. I believe it can be regulated by law, and that we can drive out foreign one dollar notes and have a small circulation of gold and silver, if we do not strike out this section. My judgment is that the effect will be to the contrary from what the gentleman from Douglas thinks.

Mr. MCCLELLAND. Mr. President, my experience in Missouri is different from the gentleman's who last spoke. I have taken one and two dollar bills in Missouri, and find them plenty there. The effect of keeping this section here, will have the tendency to drive specie out of the State, rather than to leave it here. People traveling through here will use currency that is easier carried than silver—will bring in these bills and circulate them—and whenever they have occasion to spend their larger money, if there should be no bills of a less denomination than five dollars, the tendency would be to carry away the small change. In Ohio, when they passed a law against the circulation of any bank bill under five dollars, they found it difficult to get along without the small change, and they called upon the banker to issue small bills, in order to make their small circulation sufficient. Specie was worth five per cent., because there was not enough home bills to answer the purpose of small change, and foreign [*271] bills being excluded, it raised the price of specie even to *five per cent. I am in favor of striking out this section.

Mr. CROCKER. Is an amendment in order?

The PRESIDENT. No amendment is in order until after further action shall be taken.

Mr. STIARWALT. Mr. President, it seems to me gentlemen talk a good deal about small bills in Ohio and Pennsylvania. I have been a little acquainted in those States, and I have frequently taken a ten dollar bill and given as high as fifty cents to get silver for it. I don't believe any gentleman can go into Missouri and get a ten dollar bill changed; and why? They have got plenty of specie, but there are no small bills issued by the State. You offer them a bill, and the man will tell you plainly they won't

take that, and they get the specie. Let me tell you, sir, it is my opinion that the common people are cheated more in counterfeits of one, two and three dollar bills than all the balance, because it is expected to pass them upon people who don't know anything about the money. I have been at Pittsburgh, and have had to pay from one to five per cent., to get a bill changed; and I have done the same in Cincinnati. I think a less denomination than five dollars ought not to be issued. It has a tendency to drive specie out of circulation.

Mr. GREER. Mr. President, I shall oppose the recommendation of the committee, on the ground that I believe this section to be a restriction upon banking; and it strikes me the arguments used against it are not well taken. It matters little to the man who only gets a bill once in a while—who only gets small bills. I believe it will have a tendency to prevent a large circulation of small bills that would otherwise be issued by irresponsible bankers who will spring up in this State. Every man acquainted with the local transactions of Kansas Territory, knows that there are less small bills in circulation here than anywhere else in the country. It is very immaterial to a man who is making a living by day labor, whether he has the bills of Kansas, Indiana, Ohio, or Pennsylvania, so they are good; and he is as likely to know whether the bills are good of the Indiana, Ohio, or Pennsylvania banks, as he is of those in this State; and they will be just as likely to be good. It can't be pretended that we are going to make a safer system of banking than other States. The only argument in favor of striking out, would be in favor of the banker, and not in favor of the mass of the people. I go for the section because I am in favor of restriction.

Mr. BURNETT. Mr. President, I hope the section will be stricken out. In Missouri, they have had this restriction, but it has never prevented the circulation of small bills. You can find plenty of them all over the State, and they are all the bills from foreign States, of course. By this restriction you give the preference to foreign bills over those of our own banks. It is a restriction against our own banks, and in favor of foreign banks. I hope the recommendation of the committee will prevail.

The question being upon the recommendation of the committee to strike out section 7—

The yeas and nays were demanded, and being taken, resulted—yeas 22, nays 27—as follows:

YEAS—Messrs. Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Foster, Graham, Hutchinson, Hoffman, Lillie, Lamb, McClelland, Preston, Porter, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams—22.

NAYS—Messrs. Arthur, Brown, Barton, Dutton, Forman, Greer, Griffith, Hipple, Hubbard, Hanway, Houston, Ingalls, Kingman, Middleton, Moore, McDowell, McCune, McCullough, Palmer, Parks, Ritchie, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—27.

So the recommendation was rejected.

Mr. SLOUGH. I move the adoption of the original section.

The PRESIDENT. The committee's amendments to the section are not all stated—strike out the word "bills" and insert "circulating notes."

[*272] *The amendment was agreed to.

Mr. J. BLOOD. Mr. President, if in order, I move to reconsider the vote by which the section was adopted.

Mr. SLOUGH. I would inquire what is the proposed amendment?

Mr. J. BLOOD. Did I understand the recommendation of the committee was adopted?

The PRESIDENT. The recommendation to strike out was rejected; the amendment to change the word "bills" to "circulating notes" was adopted.

Mr. J. BLOOD. I move to reconsider the vote by which the section was adopted, for the purpose of inserting "fifty" in the place of "five" dollars. If it is good policy to exclude bills of a less denomination than five dollars, I think it is good policy to exclude bills less than fifty. If gentlemen wish to have the small notes of foreign banks circulated here, I think we should have exclusively the issues of foreign banks. If small bills of our banks were put in circulation—

The PRESIDENT. The question is not debatable until the motion is fairly before the Convention.

Mr. SLOUGH. I move to lay it on the table.

The yeas and nays were demanded on this motion.

Mr. BURRIS. Mr. President, I would enquire whether, if we reconsider the vote by which this section was adopted, that would open the question again, and an amendment to strike out would be in order?

The PRESIDENT. It would not be open for a motion to strike out, for the reason that that would be a question which the House has decided in the negative.

The yeas and nays were ordered, and being taken, resulted—yeas 29, nays 19—as follows:

YEAS—Messrs. Arthur, Blunt, Brown, Barton, Dutton, Graham, Greer, Griffith, Hipple, Hubbard, Hanway, Ingalls, Kingman, Lillie, Middleton, Moore, McDowell, McCune, McCullough, Palmer, Parks, Porter, Ritchie, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—29.

NAYS—Messrs. Burnett, Burris, J. Blood, N. C. Blood, Crocker, Foster, Hutchinson, Hoffman, Houston, Lamb, McClelland, Preston, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams—19.

So the motion to reconsider was laid on the table.

Mr. HUTCHINSON. I rise to enquire if a motion to amend will be in order.

The PRESIDENT. A motion to amend will not be in order.

Mr. THACHER. Mr. President, the matter has come right where the select committee expected it would, and we shall have to fight the whole thing over again unless their report is adopted. I ask the liberty of making a report from the committee on phraseology and arrangement, that will cover this thing. It is as follows:

"The select committee, to which was referred the matter of the action to be taken by the Convention with the reports of the committee on phraseology and arrangement, respectfully report:

"That the Convention adopt the reports without amendment, unless the amendments come recommended by the committee on phraseology and arrangement."

Mr. HUTCHINSON. Mr. President, this reaches the point we had at issue, precisely. My opinion is that the bills which have passed through the hands of this Convention and gone to the committee on phraseology, with the understanding they are to be returned again, when they are returned, will appear here as on their second reading. Now, the question arises, how is any proceeding necessary before the offering of—

The PRESIDENT. The gentleman is not in order, unless he discusses the report of the committee. The question is not upon the ruling of the Chair.

Mr. HUTCHINSON. I will simply state that I believe it is the privilege of all deliberative bodies to be allowed at least three readings of any subject matter they pass upon.

[*273] Mr. SLOUGH. Mr. President, as a member *of the committee to which this matter was referred, it is proper I should make some explanation of the system I preferred, and I propose to shape it in the form of an amendment to the report. I think it well to adopt some such rule with reference to sections that have been passed upon by the Convention. There may necessarily arise matters that have been omitted, and matters of such great importance that it will become necessary to suspend this rule if we now adopt it. I would make this exception to the rule, that its application shall be to all sections that have been passed upon by the Convention, but that new sections may be proposed. I move this amendment to that report:

"Except new sections or sections not passed by the Convention and referred to the committee on phraseology and arrangement."

Mr. THACHER. Mr. President, the object of the report is to expedite our business; and as we would have to fight a new battle over again upon every question that is mooted here, it strikes me as the height of wisdom to adopt the report. I understood the gentleman from Leavenworth (Mr. Slough) to agree to it, and to agree that it should be presented to the Convention whenever an exigency should arise.

Mr. BLUNT. Mr. President, if that report is adopted would we be able to introduce new sections?

The PRESIDENT. The understanding of the Chair would be that it would not entirely exclude new sections.

Mr. GRIFFITH. It seems to me if a new section of importance was brought up, the Convention would suspend the rule, and if it was not of importance they would not.

Mr. THACHER. I am opposed to the amendment.

Mr. SLOUGH. The Convention has this day overruled a recommendation of the committee on Phraseology and Arrangement. In the first report, they made a recommendation that was overruled. If we are confined to the passage through that committee of all matter, the Convention are [is] cut out from action by the action of the committee.

The PRESIDENT. The Chair understands that by a reconsideration of a section the Convention can take it up.

Mr. SLOUGH. Then the ruling of the Chair sustains the ground I occupy.

The PRESIDENT. The object of the Chair was to make his ruling a law of the Convention.

Mr. SLOUGH. The point is that if any new matter of importance may suggest itself to the minds of members, it may be considered in Convention after the report of the Committee on Phraseology. If we adopt this report, we are cut out from this. If we cannot go behind the report, we may not be able to perfect this instrument as desired; therefore I move the adoption of my amendment. It seems to me this is necessary for our protection; and unless we do it we may place ourselves in an attitude where we cannot finish without the violation of every rule we have adopted.

Mr. McDOWELL. Mr. President, I shall oppose this report and also the

amendment. I think that according to the rules which we have adopted, this Convention has the manifest and obvious right of having an Article read three times; and the Convention has the right to pass three times upon any distinct Article. That was the impression of a number of us when a great many of the reports of the committee were taken up, passed upon in committee, and then in Convention, and referred to the committee on Phraseology. These things were hurried through, and a great many gentlemen desired to have reconsidered by the Convention a good many sections that have already been adopted. I claim that as their right. I shall claim it, and don't propose to compromise by voting for this report. If the report is adopted, it will take a two-thirds vote to suspend the rule. The gentleman from Douglas (Mr. Thacher) declares that he will [*274] have to go over all again. *That is no objection. We ought to be a deliberative body, and we cannot be too careful to perfect the provisions of the Constitution. A great many of them are passed without discussion, and if we are to be prevented from examining anew any Article to go in the Constitution, I think it is a very successful application of an unheard of "gag" in this body.

Mr. BURRIS. Mr. President, gentlemen have expressed an anxiety to get through with their labors as soon as possible. It does strike me that unless we adopt some such suggestion as the one proposed, we are not likely to get done for some time. Unless the report of the committee is adopted we may hurry as rapidly as we can, and it will take us some time into the fourth week. I am not in favor of too great haste any more than the gentleman from Leavenworth (Mr. McDowell) but it does seem to me that there can be no new case arise, but what, if it is of sufficient importance, it can be reached. If it is some change in a section already adopted, it can be reached by a reconsideration, and if it is entitled to consideration, that fact will be made apparent. If a new section should be proposed—as I understand the report of the committee it would not preclude gentlemen from introducing new sections, and it would be competent for the Convention to take such action as they might think proper. For the purpose of expedition I shall favor the report of the committee and hope it will be adopted.

Mr. THACHER. Mr. President, the remarks made by the gentleman from Leavenworth (Mr. McDowell) must have convinced every gentleman here that if we get through at all, in any reasonable length of time, we must adopt some such provision as this. He talks as though we have went [gone] on at railroad speed; and we had just as well consider ourselves booked for three or four weeks longer, unless we adopt some such provision as this.

Mr. STINSON. I would suggest that it be so amended as that this Convention do now adjourn, and leave the Constitution in the hands of the committee on Phraseology and Arrangement.

Mr. BURRIS. I move that the amendment be laid on the table.

The PRESIDENT. The Chairman desires to state that gentlemen seem to labor under a great misapprehension in regard to the rules of the Convention. By reference to the printed rules they will discover, that the Convention adopted such rules of the last Legislative Assembly of the Territory of Kansas as were applicable to the business of this Convention. In adopting these rules, the provisions relating to the different reading of bills were stricken out, and so no provision is made for the second or third reading. No precedent has ever been so given for this. In this Convention, it will be remembered that papers of different kinds have been

introduced and acted upon immediately, and referred according to the pleasure of the Convention. No precedents of readings, such as prevail in a legislative body, has ever been followed even for an hour. But the Chair sees no difficulty. The Convention have adopted certain articles, section by section. These have been referred for the purposes of revision, with the distinct understanding that not only any revision that did not affect the sense might be reported, but that the committee would have the privilege of making any other recommendations they might see fit, to be acted upon by the Convention. The power is not given to that committee to make any changes, but they can recommend changes to the Convention, and the Convention can reject or adopt. If the committee on Phraseology neglect to make a report, surely the Convention can reconsider and amend, strike out, or adopt as they see proper. When gentlemen speak of a "gag" under these circumstances, it seems as though they have not taken sufficient pains to inform themselves of the facts.

Mr. MCDOWELL. Notwithstanding the explanation of the Chair, I do not take back what I said, but simply reiterate the same.

[*275] *The PRESIDENT. The report would not preclude the introduction of new matter.

Mr. SLOUGH. I withdraw my amendment.

The report of the special committee was then adopted.

The yeas and nays were demanded on the adoption of the seventh section, and being ordered and taken resulted—yeas 25, nays 23—as follows:

YEAS—Messrs. Arthur, Barton, Dutton, Forman, Greer, Griffith, Hipple, Hubbard, Hanway, Houston, Kingman, Lamb, Middleton, Moore, McDowell, McCune, McCullough, Parks, Ritchie, Slough, Stinson, Stiarwalt, J. Wright, Wrigley and T. S. Wright—25.

NAYS—Messrs. Burnett, Blunt, Brown, Burris, N. C. Blood, Crocker, Foster, Graham, Hutchinson, Hoffman, Ingalls, Lillie, McClelland, Preston, Palmer, Porter, Ross, Signor, Stokes, Simpson, Thacher, Townsend and Williams—23.

So section 7 was adopted.

The committee's substitute for section 8 was read.

Mr. SLOUGH. Mr. President, I move to reject the amendment of the committee. The difference between the proposed amendment and the original section as adopted is, that the amendment provides for an expression of the majority of the people voting on the subject at some general election, whereas the original section requires a majority of all the votes polled at such election. I think we cannot throw too many safeguards around a matter of as much importance, and it seems to me a majority of votes should be requisite.

The yeas and nays were demanded.

Mr. GRIFFITH. I think it is right to submit every question to a decision of a majority of men who may vote and not to a majority of those who may reside in the district or State.

The yeas and nays were ordered, and being taken, resulted—yeas 25, nays 24—as follows:

YEAS—Messrs. Arthur, Brown, Barton, J. Blood, N. C. Blood, Forman, Greer, Hipple, Hubbard, Hutchinson, Kingman, Lamb, McDowell, Moore, McCune, McCullough, Palmer, Parks, Ritchie, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—25.

NAYS—Messrs. Burnett, Blunt, Burris, Crocker, Dutton, Foster, Graham, Griffith, Hanway, Hoffman, Houston, Ingalls, Lillie, Middleton, McClelland, Preston, Porter, Ross, Signor, Stokes, Simpson, Thacher, Townsend and Williams—24.

So the recommendation of the committee was rejected.

The committee amendments to section 8 were then adopted.

The committee amendment to section 9 was also adopted.

Mr. MCDOWELL. I have an additional section which I desire to offer, and call for the yeas and nays upon it.

"SEC. 10. The Legislature shall prohibit the circulation within this State of foreign bank bills."

Mr. GRIFFITH. I move to amend by adding "of a less denomination than five dollars."

The PRESIDENT. The Chair believes that the amendment will not be in order, having been substantially voted down previously.

Mr. THACHER moved to lay it on the table.

The motion was agreed to on division—affirmative 26, negative 13.

The PRESIDENT. The Chair desires to state, as there seems to be some misapprehension with regard to this order, that these different sections of articles, as they were considered by the Convention, were adopted one by one and the Article as a whole was not adopted, but sent to the committee on Phraseology. It is now returned and none of these sections which have been adopted can be changed without a reconsideration of the vote by which they were adopted. But additional sections may be added, for the reason that the Article as a whole was not adopted. The question is now on the adoption of the Article as a whole.

Mr. WRIGLEY. If a motion to adopt the Article as a whole would be in order, by what rule would not an amendment be in order?

The PRESIDENT. Because the separate sections have been adopted as [*276] sections separately, *but the Article as a whole has not been adopted yet.

The Article on banks and currency was then adopted as amended, and under the rule referred to the committee on Arrangement for enrollment, &c.

MRS. NICHOLS.

Mr. BLUNT. Mr. President, with the consent of the Convention I wish to present a petition that has been handed to me by some citizens of Wyandotte, with a resolution.

Resolved, That the use of this Hall be tendered to Mrs. Nichols for to-morrow evening.

The resolution was adopted.

Mr. STINSON. Mr. President, I move that we adjourn.

The motion was agreed to.

The Convention accordingly adjourned till to-morrow morning at 8 o'clock.

FRIDAY, July 22, 1859.

The Convention met at 9 o'clock, A. M.

Prayer by the chaplain.

The roll was called, and the Secretary reported Messrs. May, McClelland and Perry not answering to their names.

The journal of yesterday was read and approved.

THE NORTHERN BOUNDARY.

Mr. MCDOWELL. Mr. President, I offer the following resolution:

"*Resolved,* That Congress be memorialized to include within the limits of the State of Kansas, that part of Southern Nebraska lying between the northern boundary of the Territory of Kansas and the Platte River."

I will make a single remark, Mr. President, in favor of that proposition. By the action taken the other day, fixing the northern boundary of Kansas upon the line fixed by the organic act, and by moving a reconsideration of that action and laying it upon the table, the Convention has clearly indicated that they do not propose to make as an integral part of the Constitution that country between our northern boundary and the Platte River. This is a matter of great importance, it seems to me, to the future State of Kansas, and as we are foreclosed upon the question of making it an integral part of the Convention, I suggest that the Convention ought to memorialize Congress upon the subject. If the resolution I have offered meets with the sanction of the Convention, I shall then offer another resolution requiring a committee to be appointed who shall draw up the memorial, instructing them to report the facts connected with this matter. It seems to me there would be no objection to accepting this proposition. The whole matter is within the discretion and power of Congress, and it gives, it seems to me, but an expression of the will of the people of Kansas upon this question. I hope, therefore, the Convention will allow the resolution to pass, and allow a committee to be appointed under it to draw up such a memorial.

Mr. STINSON. Mr. President, I have but a few remarks to make to this Convention in relation to this important matter, and that is that when this Convention shall take action, (if it does) against this resolution, I desire that they shall send out to the world, in its reported debates, some reason for that action—I mean some reason becoming the dignity and importance of the subject and of this Convention. I do not—however much I might desire it—view it as simply a question of political capital. I do not desire it to go forth from this hall, that a Convention assembled for the duty which has been assigned to us, shall simply say to the people, that, because Southern Nebraska will make the next Legislature democratic, we will refuse this rich and precious boon. I ask gentlemen—now when this subject is again under consideration—to give us some material argument, which shall rise above, at least, the petty broils of party (if they have any) why this proposition should not succeed. We have been [*277] told here *upon this floor, by a gentleman whose eloquence I admire and whose honesty I respect (Mr. Thacher) that he had no other argument to use—that he desired no other reason—than that it would make Kansas democratic. Now, in the first place, I deny that there are any data which justifies that assumption. And in relation to the debate which has heretofore occurred upon this question, I will say that I take exception to the line of argument which the gentleman from Southern Nebraska has used. Speaking by the courtesy of this Convention, he

seemed to urge, that because this section of country was Republican, therefore he would have the Republican members on this floor vote for its admission. I say it is an unfair and unmanly appeal, and one which should not be listened to with deference by this Convention. I would not dare to stand up and say to my friends on this floor: "I ask you to vote for this measure because it is a partisan measure." I consider it unworthy the position I occupy, and insulting to the dignity of this Convention. Now the simple proposition is, shall we extend our northern boundary? The only consideration which should weigh for a moment is this: Will it benefit materially the interests of the State of Kansas? If it will, I tell you you have no other alternative than to vote for it. When you stand up here and admit, that it would enhance the greatness of our future State, and fall back simply upon the proposition, that it will not subserve the interests of the Republican party, you are placing yourselves in an unenviable position. When you introduce other arguments, intended to convince us that it is impolitic upon other grounds, I will listen to them calmly; and I ask gentlemen now to give such reasons to the people, if they have them.

Mr. THACHER. Mr. President, I am not feeling very well this morning, and yet I cannot suffer this question to pass without correcting a very serious mistake which my worthy friend (Mr. Stinson) has fallen into with respect to my argument against this annexation scheme being based solely upon its political character. He errs very greatly—very widely and very seriously—when he thinks that is the only reason why I object to this acquisition. It is a reason, but not the only reason, and I stated in what I had to say, that I should only urge that consideration, leaving members from different sections of the Territory to urge those local reasons which would imperiously compel us to let this question go by at present. When my friend says we have urged no argument against it, I turn the tables upon him, and ask, What reasonable suggestion have you urged for it? You talk about the glory of extent of domain, and all that kind of thing; but remember, the present boundaries of Kansas make it larger than the State of Illinois. Our area is sufficient for all the wants of the people, and the moment you extend our boundaries over an unsettled country, you only add to the burdens of government. You would add nearly one-half, by adding Southern Nebraska, to the expenses of the State government. It was the testimony of the gentleman from Southern Nebraska (Mr. Reeves) that, back from the river counties, they had no population whatever—that their population was to be found only in the river counties—and thus the effect of adding this portion of Nebraska would be to swell the power of your river counties. It must be understood, that when we memorialize Congress to admit us with Southern Nebraska included, it is the same proposition as though you defined the boundaries there in the first place. When we vote for this resolution we vote to make our northern boundary the Platte river. I turn now to urge some considerations which have grown out of circumstances not at all political. In Kansas we demand for our welfare a system of railroads. You annex Southern Nebraska to Kansas, and you have one railroad grant [*278] up the Kaw Valley and one in Southern Nebras*ka. If you annex Southern Nebraska you jeopardize the entire railroad interest of Kansas. With our northern boundary as it is, we shall have a magnificent railroad grant for some road in the north part of the State, but if you extend the boundary north you place an insuperable barrier to a railroad grant between the Kaw river and the Platte Valley. Are gentlemen will-

ing to put such a barrier upon their dearest interests? Perhaps they are —and perhaps they are not. But there is another thing connected with this. It has already been shadowed forth, that the southern boundary of Kansas ought to be the Kaw river—that it is an unnatural thing for us to cross the river. And I believe, if the Democratic party had acted honestly, that would have been foisted into the proposition; because the Territory was laid out for the purpose of making it a Slave State—and, now defeated in this terrible attempt, they would seek to take from freedom half the heritage which she won here, to fasten it upon the Indian Territory. Three-fifths of our population, nearly three-fourths, live south of the Kansas river, and any proposition which looks to this, would naturally excite alarm. Gentlemen need not appeal to this side of the House to forego political considerations. Shall we bow down our necks once more to the heel of oppression? Don't ask us to forget the past, if we can! If you adopt this memorial, you define our boundaries the same as though you had put it in the Article. The proposition is identical with the Constitution; and I tell you, the moment you adopt the Memorial, you won't get five hundred voters for it south of the Kansas river, and a majority will go against it north. Do gentlemen wish such a result? and is it true, that the party in the minority here are trying to throw around the Constitution such features that the people are to reject it? Is there any force in the Democratic papers saying that the Convention ought not to have assembled here—that it would tax us too much? If these remarks of gentlemen shadow forth anything, they indicate, that it is the design of the Democratic party to cause the Constitution to be rejected by the people. It is utterly impossible, and no consideration could or ought to be urged successfully for this Constitution to be ratified by the people, when you include Southern Nebraska in any shape. There is no need of haste in this matter. If your argument is worth a straw, that Southern Nebraska naturally gravitates towards Kansas, it will come in here when it is right and proper that it should come, and not before; and your haste only evidences a desire to retard this Constitution before the people. If it is your desire to see this Constitution voted down, then adopt this Memorial; for it is only to say here, that your northern boundary shall be the Platte river; and you will be voted down by an overwhelming majority. I have yet to hear a single well-grounded argument from that side of the House in favor of the annexation scheme. You annex a broad region of country almost untouched by man, and you give us three river counties which embrace its entire population. This is a broad territory over which we have got to legislate, and for which administration the people included within our present boundaries will have to pay. For these reasons, aside from the political considerations involved—and I believe it is only political considerations which impel gentlemen to advocate this measure—do I oppose annexation. Gentlemen may think they are honest, but human nature is weak and apt to be blinded; and such is human nature, that these gentlemen are impelled by the political considerations involved in this question. If you are impelled by political considerations why do you hurl it back, that Republicans are on the same ground, and only you have the argument? You can adduce no reason why we should annex Southern Nebraska.

Mr. HOUSTON. Mr. President, quite unexpected is this discussion to [*279] me. I don't know but I ought to claim indulgence for *again speaking, but I should be recreant to duty if I remained silent—I should be recreant to the interests of Kansas, if I remained still and let such a

golden opportunity slip by. If we let it slip and do not adopt this resolution, which don't amount to anything more than simply a memorial, it will be the first instance on record, in any State in this Union, or in the world, that I know anything about, where the people have been foo'ish enough to allow an opportunity to enlarge their boundaries to slip by. The idea of annexation has been popular from the days of the Jews down. Go back in history, and you will find the idea of annexation has always been popular. Even Texas, with all its objections—and I had objections to annexing Texas, because I felt it was intruding upon Mexico—but the annexation of Texas was one of the most popular measures of the day, after it was once fairly into the Union. Now I ask Republicans here if we are willing, for mere party considerations—if we are willing to give up this territory? For, as a Republican Convention we have got to bear the burden of accepting or rejecting this measure. Are you going to hand over to our friends on the other side of the House the only strong arguments that will bear upon the people? They are shrewd. They know the idea of annexation is popular, that it will carry before the people—and it will carry down the party that opposes it, too. They are right. I am not a prophet, nor the son of a prophet, but I will stake my reputation for judgment upon this measure, that the party that refuses this will be trailed in the dust before ten years. We are told it will make this a Democratic State. They know all they have to do is for them to crowd it, and we will reject it. If I was a Democrat I would do this thing. What is the value of this Democratic idea—what if it is a Democratic region? I think gentlemen press this argument without consideration. Mr. Taylor assured us that it was a Republican portion of country; he assured us that the majority in 1858 was Republican. The lines truly have never been strictly drawn; the whirlpool of local considerations has swallowed up politics. There is but little difference, and that is on the Republican side. I don't care if it is Democratic; it is no good reason why we should reject it. Are we driven to assert that we must reject a valuable territory because there are a few Democratic voters in it? If so, it is a lamentable condition for our party, and I think we might as well give up at first as at last.

We are told it would give strength to the border; the river counties. Gentlemen, I live back in Riley, and I would be as jealous of the interests of the interior counties as any gentleman. But we want to give you all the strength and power we can, and you will give us all the protection we desire. Let us do something to give strength to our party. We have cut off one half of this Territory and we shall have to answer for that. The State of California has one hundred and eighty-eight thousand nine hundred and eighty-eight square miles; Oregon has one hundred and seventy thousand. More than that, Texas has three hundred and twenty-five thousand, and as has been told you, you can't divide that State now. Minnesota has one hundred and forty-one thousand square miles; and I have taken the pains to ascertain that if we run our boundary to the Rocky Mountains, which we ought to do, and run to the Platte, we would have less territory than the State of Minnesota. If you are going to throw away one-half west, why, do it. But when we ask for some north, gentlemen say it will be too large. I want to ask gentlemen if there is any reason why Kansas should not be the agricultural centre of the Union—with her glorious soil and grand natural advantages? Is there any good [*280] reason *why we should not have a State as large as Minnesota? Are you alarmed because we want to add a little up north, of a rich agri-

cultural region? There is as valuable land on Blue River as there is in that Territory—that beautiful, high, rolling prairie that belongs to the Blue River and the head waters of the Nemeha. Are you afraid of having a rich agricultural district up there, gentlemen? There is more valuable land in that region than you have got in all Kansas. You will have to add that in order to get land enough that is valuable. It is only along your streams that you can pick up good sections. If we want to get a land grant of five or six millions of acres, let us have some place where we can get good land from. We can take these valuable lands and sell them. I am not afraid of half a dozen counties in the northeast corner of the Territory. Do gentlemen suppose they can outweigh the whole State? Certainly not. This argument of land grants is certainly one of the most powerful that could be presented. We are told by the gentleman from Douglas (Mr. Thacher) that we will have a railroad through Kansas and another through the Platte, and that will end it. If Congress gives us the land, I want to know if we can't arrange this matter? If those counties are not inhabited, is there any danger that Kansas will sacrifice all that interest upon the Platte? I suppose some say they will have a railroad on the Platte. If I was in Nebraska I would be the last man to surrender up the Platte, and I never would come into your State on that very account. It will not affect the railroad interest of Kansas one particle.

I will hurry through as fast as I can. We are told it will defeat the Constitution. I was almost going to say, if [we] were so silly as to defeat the Constitution of the State, simply because we annex valuable agricultural interests—if this will defeat it I think it ought to be defeated—ought to be voted down. But I am the last man to believe any such a thing. There may be a few men in the State who wish to make our seat of government south of Kansas river. I don't say there is any such project, but there might be some one who would oppose the Constitution on account of the seat of government. I tell you a majority of the people of the State of Kansas will think a great deal more of this Convention if it will memorialize Congress to enlarge our area. I think, also, that we will need it in order to get population enough. One of the most formidable arguments that will be brought against us before Congress is, that we have not the required population. But we are told that this region is of no value. I tell you the day is coming when you are going to put the government in operation, and when you will find that you have a debt of at least two or three hundred thousand dollars to pay within the succeeding twelve months; and I ask if the people of Kansas will not then question the wisdom of the rejection of what would give to us a large amount of taxable property? I am mistaken if you don't see the day when our people will say, "you have missed it!—you ought to have taken that region in order that our burden of taxation might have been lightened."

I believe, sir, there is another consideration. I don't think it is at all certain which way the Pacific Railroad is going; whether up Smoky Hill Valley in Kansas, or up the Republican Valley. It can go up to Fort Riley and then turn up the Republican Valley. I have been eighty miles beyond Fort Riley and there you cannot get twenty thousand acres of good land lying together. You will need this Republican Valley in order to get this Pacific Railroad out into the mountains, and you will need Southern Nebraska in order to get the right of way. Now I think it will be easy for us to get this lower line of railroads to center upon this line, so that [*281] we can have the great thoroughfare of the nations running *right through Kansas. Is this no consideration? I do not know what river is the natural northern boundary of the State, and we shall miss it if we

don't take it in. This memorial can go on the table or under the table, or be indefinitely postponed in Congress. It cannot affect our admission. I think we ought to adopt the resolution.

Mr. PRESIDENT WINCHELL (Mr. Townsend in the Chair). I had hoped, sir, that this question had been forever set to rest, as far the Convention that framed the Constitution of Kansas was concerned. We have had introduced here a question which is foreign; which never entered into the canvas; and that question has been fully and thoroughly discussed by zealous and able debatants. The sense of the Convention has been expressed unfavorably to the scheme, and still gentlemen insist upon bringing it up, to postpone the time when we shall conclude our labors. I did not intend to occupy any time upon the question, but inasmuch as the subject is pertinaciously urged, I believe it is due the constituents I represent to give a few arguments (if so considered by the opposite side) against the plan. This resolution strikes at the principle of popular sovereignty, which the gentleman who introduced it professes to advocate. In this overwhelming expression of popular sentiment not one single member south of the Kaw river sympathises; not one in favor of this scheme, and avowedly their constituents are opposed to it, without distinction of party; and if the people north of the Kansas river are opposed to the plan, the gentleman brings in this resolution against the known views of the people of Kansas. No opportunity is given for any expression by the people, but it is proposed to be left entirely to the control of Congress to take such action as they see fit in the premises. For this reason alone I should oppose the resolution. Had the gentleman offered it in such a way that the people of Kansas should decide upon the question, there would have been more plausibility in the resolution. But the position in which it stands now before the Convention betrays simply an effort to override the known will and wishes of the people of Kansas, and possibly the people of Nebraska also. Can it be doubted that, if this resolution should pass—that if this Convention framing this Constitution should take such a position with regard to Southern Nebraska, the people of the Territory, seeing their known wishes set at defiance, would be compelled to vote against the Constitution itself? We should materially endanger the success of the instrument by taking any such action. There has been a great deal said with regard to natural boundaries. It is a well known fact that where States are made too large there is a continual tendency to their division. If the Platte is the natural boundary upon the north side, it is equally true that the Kansas river would be on the south; and I ask, with the same plausibility that has been manifested on this question, if politicians in future would not bring up [in] connection with this scheme the question as to whether the other natural boundary of the State should not be observed, and all south of it erected into an independent State? If the Platte river is the natural boundary on the north, the Kansas river is no less so on the south. It would open the door for future difficulties, dissensions and discussions, and there is no knowing what mischievious results would flow from this measure. My friend from Riley (Mr. Houston) is looking forward ten years for the evil consequences, and if they may possibly result from non-action, certainly they might in the other alternative. I am not one who believes a State is prosperous precisely in proportion to its size. I recognize it as no argument in favor of increasing area, merely to increase area. If we were to expect donations of lands on account of our area, in order to diminish the State debt, or for public purposes, then the argument would have some point; then we might claim this so-called this golden opportunity for the annexation of a country which would result in benefit to us. I cannot see

[*282] how *the mere extension of our boundary lines is either to diminish the expense of government or increase the prosperity of the State. The gentleman from Riley has intimated that there may be selfish considerations with the opposition. That gentleman is the last person who should broach that. As far as I have listened to this debate upon this floor those who have opposed annexation have been careful not to say what some have thought, that the strange advocacy of this measure on the part of certain members of the Convention is on account of certain local considerations. As the gentleman has made the insinuation that the opposition of southern members may be for the purpose of securing a State capital at some point south of the Kaw, I submit on the other hand whether a strong inducement to the advocacy of this scheme on the part of the northern members may not be caused by a desire to secure the capital at some point north of the Kansas valley? Those who listened to a foreshadowing in the gentleman's remarks with regard to a union of railroads coming up from the south and striking the Kaw valley at some point above, and other railroads coming from the north and striking the same point, and a railroad passing through that point—cannot fail to see that there may be some grounds for the supposition, that this plan contemplates a union of railroads at some point in the Kaw valley. I do not say that is so; the gentleman did not say positively that any arguments influenced those who lived south of the Kaw; but if he supposes that the seat of government may influence the action of southern Kansas, we are at liberty to suppose that the like selfish considerations might prevail in biasing his action upon this subject. I do not propose, Mr. President, to enter into a political argument upon this question. I believe and I think the votes upon this floor show there is a political design upon the part of the opposition in this movement. Still I do not propose to argue the political question; not that I do not think we have a right to take it into consideration. I believe in the dominant right of party in a State—that it has a right to claim, that no action shall be taken, against the will of the people, that will tend to reverse the political opinions of the State. If there were a majority of Democratic members in this Convention—if the people of the Territory believed in the Democratic party and Democratic principles—so called at the present day—I believe the representatives of the people would have no right to make it a Republican State. I believe representatives are bound to carry out the will of their constituents in every particular. I propose not to discuss the political question, though I must say the arguments of the gentleman from Southern Nebraska in favor of its being Republican, struck me as the very arguments I should rely upon to prove the contrary. What were they? Simply that Democrats had been elected in Southern Nebraska in opposition to other Democrats—Democrats had always been elected there in opposition to other Democrats. If it proves anything at all it proves that the Republican party is so weak they never dare run a ticket at all; it can lead to no other conclusion. Mr. President, unless this resolution is so modified that the people of both Territories shall have an opportunity of expressing their opinion at the ballot-box upon this question, previous to any action by Congress, I can support it. But now I shall vote against it.

Mr. MCDOWELL. Mr. President, when I introduced that resolution it was not my intention to make any extended remarks. I offered my reasons for its introduction at the time I presented it, but I cannot allow this occasion to pass without making some little reply to somewhat that has been said upon this floor as an objection to this proposition. But what does the resolution embrace? Simply to memorialize Congress to include

as a part of the boundary of the new State of Kansas the country lying [*283] south of the Platte riv*er. This question, as the gentleman from Osage (Mr. Winchell) stated, has not been, I think, defeated by a vote of this Convention. The vote of the Convention simply defeated the proposition to make this an integral part of the Constitution of the State of Kansas. Now whilst there may be gentlemen here who are opposed to making that an integral part of the Constitution, they may be in favor of memorializing Congress upon the subject. The two propositions are distinct; they are not the same. In the remarks I made on Saturday last, in favor of the acquisition of this northern territory, I disdained—and I think my remarks will show I was consistent with myself—being actuated by partisan influences or political considerations; I advocated it for what I considered to be the good—the obvious, manifest good—of the future State of Kansas; and I adjured gentlemen in the Hall, as they were legislating, not for a political party, but for the people of this new State—as they were legislating not only for themselves and the people who are here to-day, but people who are to come after us—to ignore, in their investigation of this question, all mere political considerations. We were met immediately by the gentleman from Douglas (Mr. Thacher) who fancied he discovered a wooden horse, and he gave us a translation of that very celebrated sentence, because every speech I have ever read contains it—*Timeo Danaos et dona ferentes*. He assured this Convention that he did not look at any other fact in the investigation of this question than that, if this acquisition of territory were successful it would give some predominance to the Democratic party; and then, as he has done on several other occasions, he went into a tirade against the Democratic party. That gentleman will do me the justice to say, that in no argument upon this floor have I attacked the Republican party as a party. And the Convention will bear me out in asserting, that no proposition has emanated from this side of the House, from the Wyandot question, where we asked that a large portion of the people of Kansas might be represented upon this floor, down to this hour, but the charge has been brought up by the other side, that the Democratic party had advocated the Lecompton Constitution! had endeavored to fasten slavery upon this Territory! and were now very consistent with themselves! We have here beheld gentlemen reiterating stab upon stab upon that party, and no gentleman has answered them. As we have made no charges upon them, I now propose to reply. The gentleman from Douglas says he opposes this measure because it might give to the Democratic party the ascendency, and goes on appealing to his imagination for his facts used in heaping abuses upon the Democratic party, and using some such expression as this: It was a sufficient objection to h'm—a sufficient consideration to influence his mind against this proposed annexation, that it came from the Democratic side of the House, and therefore contemplated a Democratic majority in the Territory. The gentleman is certainly very faithful to that party! I can say to him that, whether he annexes that territory or not, *mene, mene, tekel, upharsin* has been written all over the horizon of his party prospects; and as the old Democratic party, which he has traduced, is founded in truth, in principle, and on the Constitution, upon which it was born and which it protects—as certain as truth prevails among men—that Democracy will be in the ascendency in this Territory. This morning, the gentleman added another reason why he opposed the acquisition of this territory. It was this: That it increased the State expenses. Is that so? Does it multiply the State offices at all? Not one particle does it increase the State expenses. I ask the gentleman to [*284] name the items. On the contrary, instead of in*creasing the

State expenses, it furnishes us with a country rich in agricultural wealth to enable us to defray the State expenses of Kansas; so that there is no weight in that suggestion. Another consideration is this: That the people have not been called upon to pass upon this question; that it was not involved in the canvass, and therefore we are legislating upon a question about which we have no indication of the popular will. I take it that in the last Republican Legislature of this Territory, the Republican party did take action upon that question. They invited the people of Southern Nebraska to submit that question of annexation, and represent themselves upon it here in this hall. The question certainly was discussed north of the Kaw River, and there is not a northern delegate here who does not feel that he would be doing injustice to his constituents were he not to favor it, because his constituents have favored it. I believe that the people of this Territory are in favor of this acquisition. I believe that you cannot find a people so insensible to their own interests as to reject a strip of territory so rich, and that will be of so much benefit to the State of Kansas; and I am satisfied that no such considerations as those suggested here, of a partisan character, would influence them to reject it. Selfishness is said to be one of the natural traits of the human character, and if for no other reason than a selfish one, the people of Kansas would advocate the acquisition of this territory. In addition to the fact that it gives us a natural northern boundary, with the western line as now established, it makes our State a square, presenting the richest agricultural State in the Union; and her resources yet undeveloped are sufficient to justify one in saying it would be the richest. Population, sir, is coming in rapidly; and we will soon not only be the richest but the most populous State. From Wisconsin, Northern Iowa, Missouri, Michigan, from New England, from the Middle States, and from other Western States, there is a continuous tide of emigration pouring in upon us. They are induced to come here by the argument that we have presented, of great agricultural and commercial wealth, and good cheap farms—to improve these farms and supply the demand of that emigration, first, and then supply the produce market of the world. I stated on Saturday, and repeat it, that these little political considerations should not affect our action upon this question. We are legislating for the people of the whole State, and for people that are to come here, and it is for us to pass upon this question, looking at it as statesmen, and considering whether we will be doing justice to ourselves and to this future State to refuse a gift so rich and so generously tendered to us. It seems to me that if no higher considerations control the action of our friends on the other side, the popular voice will not approve their course. I must say for myself, and I think I can state for every gentleman who votes with me, that although we believe that territory now contains a large majority of Republican votes, and that the immediate effect of the acquisition of that territory would be prejudicial to the Democratic party, yet inasmuch as the acquisition of that territory will be of such incalculable benefit to the people of the State, we vote for it for that reason and for none other. Gentlemen have stated here, by sly inuendo, that other considerations have influenced gentlemen upon this floor in the advocacy of this measure. The capital question has been suggested for one. I am willing to admit that this capital question is a subordinate one, but the great question is the acquisition of this territory, and if I could get votes enough to annex this territory, from the Republican side of the House, I would be willing to vote for them in relation to the capital. If there is anything wrong in that, you are welcome to make the most of it. I have said this

much because I felt called upon to answer the repeated charges that gentlemen have made against us as representatives of the Democratic party.

[*285] *Mr. J. BLOOD. Mr. President, I don't intend to make an argument or a speech upon the question, but simply give one or two reasons that will influence me in casting my vote against this resolution. I believe it would be injurious to the material interests of the people of Kansas, and not beneficial. Another reason is, I believe the people of Kansas are opposed to this measure, with the exception of Democratic politicians and my friend from Riley (Mr. Houston). These reasons are sufficient to influence me in casting my vote against the proposition.

Mr. GREER. Mr. President, I desire to give notice that I shall offer my reasons to go upon the journal for the vote I shall give upon this subject.

Mr. RITCHIE. Mr. President, I had hoped this question was settled. I think still just as I thought the other day upon this question. Members on both sides are denying that local and political considerations are the inducement, while I am clearly of opinion that local and political considerations are the moving cause of this discussion. Were I a Democrat, or on the other side of the House, I should advocate, with all the ability and power I possessed, the propriety of bringing this question before the people, and I would do it for political considerations. The policy is to divide and distract the Republican party, and if the minority can get the majority divided, then certain defeat follows. I want to be understood in making this opposition that local considerations move upon me, and I am not here to surrender my feelings, to try to prove myself patriotic, when I acknowledge that truth. I believe some who are in this house to be willing to stultify themselves where party considerations are concerned, as will be demonstrated before this Convention adjourns. Mr. President, my vote will be recorded against this annexation, upon the principle of local and political considerations, and whether it goes upon that journal or not, it has gone down here into my heart, and has been my honest conviction for at least one year.

In taking up the Lawrence *Republican*, a good Republican document, I find the following, which, if I am permitted, I will read:

"We cannot conceive how any Republican can lend himself to this scheme. These miserable maneuvers for the location of the capital, which have been a most fruitful source of corruption and trickery ever since the Territory was settled, deserve the execration of every honest man. It is time they were exposed and held up to the scorn of an intelligent people. Men who will jeopardize the cause of freedom to paltry speculations in corner lots, and then come before the people and ask the first offices in the State, should be marked, and they will be. The people of Southern Kansas will never consent to a scheme so utterly fatal to their own interests and so fraught with danger to the great cause for which they have suffered so much and struggled so bravely and so well."

Now, Mr. President, I presume this does not refer to any individual member of this Convention, but this question of "corner lots" and political bribery is whispered all over this Convention, and I think the sooner it heads the better.

Mr. HOUSTON. Mr. President, I would like to make a single remark.

The PRESIDENT. If no other member desires to speak upon this question, the gentleman from Riley (Mr. Houston) will be permitted to speak a second time.

Mr. HOUSTON. I sincerely regret the shape this measure has assumed.

I regret it most sincerely, and I don't know but it may be vain in me to claim a superiority of foresight, but it is an unfortunate infirmity in me, and I hope you will bear with me. I believe we can do ourselves no greater injury, as a party, than to take a position opposed to this annexation. I say I think I can easily foresee how, that no possible position can be taken by the Republican party more dangerous to its final success than this position. I am too much of a frontier man to be turned from my purposes by any threats of a withholding power. Gentlemen who know me, know I am the last man to turn aside from danger, under circum- [*286] *stances like this. No offers of "corner lots" shall influence my vote in matters of such moment to the party and general well being of the State of Kansas. I occupy a position above all party considerations, and while I am willing to do everything I can for my party, I am unwilling to see its banner trailed in the dust by any measure, without giving my opposition to that measure. I ask no favors from the hands of the people; these hands, here, have provided for my wants, and they can do it again. And when the time comes that I shall be sunk so low that I cannot rise superior to party considerations, then I ought to be sunk behind even a party vote. I do not know how valuable a consideration has been presented to the editor of the Lawrence *Republican*. He is a man who seems to go for the southern portion, instead of the State of Kansas. In reference to the remark that none except the Democratic party and the gentleman from Riley are in favor of this measure—I tell you, sir, their name will be "legion" before you get through with it. There will be more than one-half in the south in favor of this measure. They tell us the danger is, that Congress will run a line with the Kansas river, and cutting off that portion southward, make a slave State of it. Even if our State boundary should extend northward so as to take in this portion of Nebraska, I ask, is there a man in this house that believes Congress dare divide this beautiful Territory by the Kaw valley line? It is astonishing that this argument will be pressed, that Congress, against the wishes of ninety-nine hundredths of the people, would divide us by the Kaw river line, and ruin the State of Kansas. The Democratic party is too smart to do such a thing, and the Republican party would be the last to think of it. The idea is perfectly nonsensical. It is brought up in the absence of real argument, and they hold this out to alarm and arouse the fears of individuals. Now, gentlemen, if I know anything about this matter, this Constitution goes to a vote of the people in October, and this memorial will not reach Congress until sometime next winter or summer, and we shall have a Territorial Legislature prior to that time. In December we have a State election. Have we provided for the people of Nebraska to have a representation? Not at all. That people can have no voice in the election of United States Senators, nor in anything for a year from next winter, even if admitted. Why, gentlemen, if I had no better ground to stand upon, I would say, like a man, that I had no argument. I would acknowledge that such was my position. I certainly would. Because certainly the Democratic party can't get any advantage from that quarter. Not a vote will be polled for a year from next winter by these people; and by that time we will have two United States Senators from the free State of Kansas.

Mr. RITCHIE. Mr. President, I see that—

The PRESIDENT. The Chair would state that he is very much in doubt whether, under the rules of the Convention, it is in order for any gentleman to speak after he has been permitted to give his view a second time.

But, unless objection is made, he will permit gentlemen to speak as they rise.

Mr. RITCHIE. I do not wish to occupy the time of the Convention, but it seems to me from reading the papers that are circulated before every member of this body, that some notice ought to be taken of this matter; and not having my mind upon the article I wished to read in the Lawrence *Republican* when last up, I wish to read still further; and may, before the Convention closes, ask that a committee of investigation may be had. He says:

"Upon the 'capital' question, a quiet arrangement is going on, which to many appears very discreditable to the contracting parties. In due time, the whole thing will come to the light. It may be sufficient now to [*287] say that Lawrence rejected peremptorily the arrange*ment referred to. The Douglas delegation prefer principle, rather than temporary advantage."

Mr. KINGMAN. Mr. President, I like to create a little sensation, and I know my rising gave general and universal pain to every member in the House; and so I will say I only rose to give notice that I will give my reasons for the vote I shall give, to be spread upon the journal.

Mr. BARTON. I give notice that I intend to do the same.

Mr. PARKS. I give notice that at the proper time I shall introduce a resolution and preamble something like this: Whereas, a member of this Convention from Douglas county has offered another member of this Convention one lot in the city of Lawrence, if he would vote for the capital to be established at that place; therefore,

Resolved, That a committee be appointed to investigate the matter.

Mr. GRIFFITH. Mr. President, I shall not detain the Convention with any lengthy remarks; but as the Republican party has been charged with viewing this question in a political light, I wish to say that I have not advanced an argument upon this floor based upon political considerations. I claim to be nothing more than a plain, practical farmer, and I base my opposition to the proposed annexation upon the simple fact that it is probable, if we change our boundaries so as to take in Southern Nebraska, it will give the Administration an excuse to postpone our admission into the Union, and we, as a people, cannot afford to stay out of the Union—to risk our chances for admission—for the sake of this annexation.

Mr. BURRIS. Mr. President, I merely rise to give notice that I wish to have my reasons for casting the vote I shall cast entered upon the journal.

The yeas and nays were demanded upon the adoption of the resolution, and they were ordered, and being taken resulted—yeas 19, nays 29—as follows:

YEAS—Messrs. Brown, Foster, Forman, Hipple, Hubbard, Houston, Middleton, Moore, McDowell, McCune, Palmer, Parks, Porter, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—19.

NAYS—Messrs. Arthur, Burnett, Blunt, Barton, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Ingalls, Kingman, Lillie, Lamb, McCullough, Preston, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams—29.

So the resolution was rejected.

We vote against the resolution, on the ground that the question of annexation of Southern Nebraska has not been submitted to the people and approved by them.

JOHN P. GREER,
JOHN T. BARTON.

I vote nay on the resolution offered by McDowell, for the following reasons, to-wit:

1st. Because I believe that a proposition to annex Southern Nebraska might defeat our effort to gain admission under this Constitution, or would at least delay the same.

2d. Our application for the annexation of territory on the north, would afford Congress a pretext for dismembering our Territory on the south.

3d. I believe that a large majority of the people of Kansas are opposed to such annexation.

4th. I have no doubt that an overwhelming majority of the people of the county which I, in part, represent, are opposed to such annexation.

BURRIS.

SCULLDUGGERY.

Mr. PARKS. Mr. President, I offer my resolution now:

WHEREAS, a member of this Convention from Douglas county, has offered another member of this body a lot in the city of Lawrence if he would vote for the Capital to be established at that place; therefore—

[*288] *Resolved*, That a committee of five be ap*pointed to investigate said charge, with power to send for persons and papers.

Mr. KINGMAN. I can vote for such a resolution, but cannot vote for the facts stated without any information whatever.

Mr. PARKS. I don't aim to state it as a fact. I will make it read: "Whereas, it is charged."

The yeas and nays were demanded, and being ordered and taken resulted—yeas 49, nays 0—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Brown, Barton, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Foster, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, Moore, McDowell, McCune, McCullough, Preston, Palmer, Parks, Porter, Ritchie, Ross, Signor, Slough, Stinson, Stiarwalt, Stokes, Simpson, Thacher, Townsend, J. Wright, Wrigley, T. S. Wright, Williams, Mr. President—49.

NAYS—0.

So the resolution was adopted.

Mr. STINSON. Mr. President, I move to take up the report of the committee on Schedule.

The PRESIDENT. It is not in order.

LOCATION OF THE STATE CAPITAL.

Mr. GREER. Mr. President, I offer the following:

Resolved, That the Convention proceed immediately to locate the State Capital, *temporarily*, by a viva voce vote, provided that a majority of all the votes cast shall be necessary to locate the same.

Mr. THACHER. Mr. President, I offer the following substitute for the resolution:

"At the election held to adopt this Constitution, the qualified electors shall vote for some place to be the temporary Capital of the State; and

the place having the highest number of votes shall be the temporary Capital, and the Legislature shall have power to provide for a permanent Capital by a popular vote."

Mr. PRESIDENT, I wish to make a few remarks with respect to that substitute. In all communities and in all States the question of a location of a Capital is one which interests every member of the State. It is one in which they have a direct interest, and upon which each member may be supposed to have a right to express his views and sentiments. There is but one fair and legitimate way to settle that question, and that is to leave it to a popular vote, and as the people decide let the question be. If the people decide in favor of any locality let that locality have it. There can be no wrong in this, and the resolution which I offer looks directly to the popular vote to determine the question, and settle it without any bickerings whatever. I believe no gentleman can honestly oppose that resolution. It submits at once to the people, the question as to where they will do their Capital business. No one can really find any fault with it whatever. It removes the question from the complications of a legislative body, and leaves it to that power which sent us here, and which controls all things political. There may be some objections raised to it. One may say, it may give it to Leavenworth, another to Lawrence, and another to another place. As far as that is concerned, I am willing to let the people settle that question. If Leavenworth gets it, so be it. If Lawrence, so be it; Tecumseh, so be it; Topeka, so be it. I cannot see how any gentleman can object to letting the people act upon a question in which they are so directly interested. What consideration can compel any gentleman to oppose that proposition? The people pass upon it; and I apprehend no gentleman will dare take the position that the people are not competent. As far as I am concerned, I think our own good demands the allowing of this question to go before the people. Can anything be fairer or more honest than that? Can any one, uninfluenced by personal considerations, find an objection to that? I believe this one of the questions that ought to be settled by a popular vote of the State—that it is one of the questions on which the people should be allowed to act directly: and I apprehend any one who says he will not let the people act upon this question places himself in an unpleasant position. Let the people settle this question. I say let the people decide, and as they decide let the question be settled.

Mr. RITCHIE. Mr. President, I offer the following substitute for the substitute:

The PRESIDENT. The Chair will state here that he has been in the habit of permitting variations from the regular parliamentary rule with regard to substitutes, and he has often stated that the course was open to objection, that any member was at liberty to object. But for the purpose of avoiding any question as to the strict matter of order, he will, in every case hereafter, rule a substitute to be an amendment.

The amendment to the amendment was then read, as follows:

"*Provided* a majority of all the votes cast shall be necessary to a choice."

Mr. RITCHIE. In answer to the remarks of the gentleman from Douglas (Mr. Thacher) about a man acting honorably, I tell him that they do not apply. I wish consistency, and therefore will read from his paper, which I very much esteem as a Republican document; presuming all the reason he has for changing the position is, that he has allowed somebody else to pen the article in the *Republican*, which I shall read:

"Here is my idea: In the first place select that point at the present time the most central and easiest of access for a majority of the people, and it is fair to presume that the place now the most central will continue to be for at least ten years."

Now, gentlemen, I desire not to defeat the wishes of the whole people upon any question of local interest, and therefore I offer the amendment.

Mr. THACHER. Allow me to say this: that when any man attempts to make editors of papers endorse everything their correspondents present, they resort to an unfair thing, as many editors upon this floor know. Editors admit many articles they do not endorse.

Mr. BLUNT. Mr. President, I regret very much to see so much feeling manifested upon this question of the temporary seat of government. It is a matter in which I, myself, have no personal feeling. I have been importuned by no one upon this floor to cast my vote for any point; and if it is to be said by this Convention where it is to be located, I shall cast my vote for that point which I think will best subserve the interests of those I represent. I think the proposition by the gentleman from [1]Douglas county (Mr. Thacher) to be a fair, liberal and an honest one; one which, if adopted, will do away with all the ill feelings which we see manifested upon this floor. To leave this matter to the people will obviate [*289] the possibility of any reflection being cast upon this *Convention that there has been bargain and sale and corruption. But I cannot support the amendment offered by the gentleman from Shawnee (Mr. Ritchie) requiring that a majority of all the votes cast should be necessary to a choice, because I believe that would defeat the possibility of our having any temporary seat of[1] government, unless we were to confine the vote to but two points. The temporary location is a matter of no very great importance. It is necessary that it should be accessible, and also where ample accommodations could be provided for members and I am some in favor, in view of the existing state of feeling, which I see manifested here, of supporting the amendment of the gentleman from Douglas. I had drawn up a similar one. Let the proposition be laid before the people and every man designate upon his ballot the place of his choice; and let that be declared in like manner as the vote for the Constitution. Then let the first Legislature provide for submitting to a popular vote the question of the permanent location of the capital. I can conceive of nothing that is fairer, and that will relieve us from the difficulty we have got into. Hence I shall vote for the amendment of the gentleman from Douglas.

[*290] *Mr. WRIGLEY. Mr. President, it occurs to me if the amendment of the gentleman from Shawnee (Mr. Ritchie) prevails, the effect of it would be that we would have no capital at all. It is not probable that any one place would get a majority of all the votes cast. We all know there are a great many points at which there is a desire to fix the capital of the State; and it occurs to me that it is hardly probable any one place would get a majority of all the votes cast. Again, about the same objection would apply to the original amendment offered by the gentleman from Douglas (Mr. Thacher). Therefore I would make a suggestion that this Convention ballot for the places at which they desire the location of the capital, and that after a certain number of ballots the two or three points having the largest vote be submitted to the people, and that a vote be taken upon

[1] NOTE.—By printer's error in "make-up" of the original debates, this and the following lines to the words "seat of," inclusive, appear in the remarks of President Winchell, as the last six lines of page 288 and the first seven lines of page 289 of that edition. In fact, they were uttered by Mr. Blunt, the type matter having been transposed from the last half of page 289. The restoration to the correct order makes page *288 longer and *289 shorter than they are in the corresponding pages of the original edition.

those points by the people. It seems to me that would be as well calculated to settle the question as any other way; and that it would establish the capital at some point where it would best subserve the interests of the people of the State.

Mr. RITCHIE. Mr. President, I rise to withdraw my amendment, and offer the following, with the consent of the Convention:

"*Resolved, further,* That the first Legislature elected under this Constitution shall provide for the permanent location of the seat of government by a popular vote."

Mr. J. BLOOD. Mr. President, I was somewhat surprised at the introduction of this question at this time, after the evident attempt that has been made to create feeling upon this question, by insinuations that attempts had been made to corrupt members of this body. That a proposition should be made to locate the capital by a vote of this Convention—and even after a committee had been raised to investigate a charge of corruption—it seems to me is ill-timed. It is my opinion any vote of that kind by this Convention, under the circumstances, would lay this Convention open to the charge of corruption. No matter how justly the location should be made—at Lawrence, Topeka, or any other place—the charge, no doubt, would be made that the majority vote was obtained by unfair means. I am, therefore, opposed to a location by the vote of this Convention, and in favor of submitting it to the people, both for the permanent location and for a temporary one—believing we are not in a condition to fix it. I had prepared a resolution, which I intended to offer as a substitute, but I believe, if I understand the ruling of the Chair, it would not be in order. I have no particular objection to the course suggested by the gentleman from Doniphan (Mr. Wrigley) that the vote be taken by this Convention and the question then submitted to the people without any decision on the part of this Convention, but I would prefer that the vote be left to the people without any action of the Convention.

Mr. GREER. Mr. President, I do not think that the resolution offered can have been fairly considered. It is not the proposition or intention to deprive the mass of the people of the right of saying where the capital shall be. It embraces a mere provision, that this Convention shall now locate temporarily, the capital—leaving the question open to be submitted to the people when the first Legislature, or second Legislature may say, or at any time they may see proper to locate the capital permanently.

The only difference between the proposition I submitted and the proposition of the gentleman from Doniphan is a mere question of time, with this other single difference, that mine locates it temporarily. It seems to me that the capital might be temporarily or permanently located by a minority of the people under the provision of the gentleman from Douglas (Mr. Thacher). It is well known that Douglas county claims now to have thirty-three hundred voters, and it is proposed to leave the temporary location of the capital at the particular locality that can muster a majority of the votes, and not to the people at large—to locate it at the [*291] place having a mere plurality of votes—leaving the *counties, outside of Douglas county, or any other county that can muster a plurality of votes, entirely out of the question. Hence, Johnson county, in connection with the people of Douglas county, might locate, and the balance of the Territory have no voice in the matter. I say it is most unfair—but it is of a kind with the spirit of other propositions by the gentleman from Douglas county throughout—not only upon this question but upon others. It was supposed that it would be necessary for this Con-

vention to locate temporarily the capital. When the election of delegates was to come off, the people expected that some place would be designated by this Convention at which the first Legislative Assembly should convene. Then I say that our action here is the action of the whole people, whereas the proposition of the gentleman from Douglas would be only the action of Douglas county—no other county being able to command more votes, except the county of Leavenworth. If she could muster Johnson county, which lies just at her threshhold, to vote for the location of the temporary capital at Lawrence, they would locate it without giving the balance of the people a voice. Now the proposition I submit here is, to give the Legislature authority for the submission of this question—at its first session, if it chooses—to the whole people; and to that doctrine I most heartily subscribe. I am not afraid to submit this question, or any other question that involves the interest and rights of the people, to the people themselves. I claim to be one of the people, and I am not willing to take this question out of their hands. I do think the proposition a fair one, and one that ought to be adopted. It will locate the temporary capital, as we are representatives of the people, at a point having a majority of the votes of this Convention, and give to the Legislature the right to submit the question of a permanent capital to the people at large. There can be nothing more fair. The opposition to this is unfair, and it seems to me that this Convention is not now ready to say that Douglas, Leavenworth, Shawnee, Doniphan, or any other one county, shall locate the capital temporarily, to the exclusion of the voters of the balance of the Territory. For these reasons I am in favor of the original resolution as amended by my colleague (Mr. Ritchie), and opposed to the proposition as made by the gentleman from Douglas.

Mr. THACHER. I accept the amendment last offered by the gentleman from Shawnee (Mr. Ritchie).

Mr. RITCHIE. My amendment was intended to follow the original resolution.

The PRESIDENT. It would not be in order in that position.

Mr. RITCHIE. I withdraw it.

The PRESIDENT. The Chair is of opinion that amendments cannot be withdrawn when they are in this position without some action of the Convention. On reading the amendment of the gentleman from Shawnee, the Chair finds it is incorporated into the amendment of the gentleman from Douglas, and finding them to be identical, and the condition of the question not being changed at all, the Chair will consider it as not before the Convention, which will be equivalent to its withdrawal.

Mr. WRIGLEY. I would ask if a substitute would be in order?

The PRESIDENT. As an amendment to the amendment.

Mr. WRIGLEY. I will read it:

Resolved, That this Convention now proceed to ballot for a temporary seat of government; that each member shall nominate the place for which he wishes to vote, and that the point receiving the lowest number of votes shall be dropped until only two places shall be voted for, and at the time of voting on this Constitution the electors of the Territory shall vote for one of the two places named, and the point having the largest number of votes shall be the seat of government.

The PRESIDENT. In the opinion of the Chair the amendment will not [*292] be in order, because it *covers the ground of the original resolution.

Mr. STINSON. Mr. President, I now move to lay the subject on the table.

The yeas and nays were demanded; and being ordered and taken, resulted—yeas 16, nays 33—as follows:

YEAS—Messrs. Foster, Graham, Griffith, Hubbard, Houston, Ingalls, Kingman, Moore, McClelland, McCullough, Palmer, Porter, Parks, Signor, Stinson, Wrigley—16.

NAYS—Messrs. Arthur, Burnett, Blunt, Brown, Barton, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Forman, Greer, Hipple, Hutchinson, Hanway, Hoffman, Lillie, Lamb, Middleton, McDowell, McCune, Preston, Ritchie, Ross, Slough, Stiarwalt, Stokes, Simpson, Thacher, Townsend, J. Wright, T. S. Wright, Williams—33.

So the motion was rejected.

Mr. GRIFFITH. Mr. President, so far as I am concerned I am willing this proposition shall go before the people if you confine it to two points, so we don't refer any question to the people and say a plurality vote shall elect. The principle is that a majority shall elect, and not a plurality. I think a bare plurality vote should not decide. Narrow it down to two points, let the Convention select them, and I am willing to refer the question between them to the people.

Mr. WRIGLEY. I desire to so change the amendment, that—

Mr. BLUNT. Do I understand that the amendment of the gentleman from Doniphan (Mr. Wrigley) is before the Convention?

The PRESIDENT. The Chair does not consider it as being in order, until after the amendment of the gentleman from Douglas is disposed of.

Mr. HIPPLE. Mr. President, I would like to offer a resolution in relation to this subject. As there is a committee of investigation raised, I think it is inexpedient to act upon this question now, and I would ask the consent of the House to offer the resolution.

The PRESIDENT. The resolution is not in order, because a motion to lay on the table has just been taken, which would be the object aimed at by the gentleman from Leavenworth (Mr. Hipple).

Mr. HIPPLE. The resolution reads as follows:

"*Resolved.* That the question of the temporary location of the Capital shall not be taken up until after the committee of investigation shall have made their report."

I think that is no more than justice. Let the Convention know whether there has been any fraud, and if so, let the people know it; and if there is no truth in the charges upon which the committee was raised, let the people know it. I offer this resolution, and hope the Convention will adopt it.

The PRESIDENT. The Chair will consider the resolution as equivalent to a motion to postpone, and will entertain it.

Mr. STINSON. I shall vote for the postponement as a matter of justice to Lawrence.

The yeas and nays were demanded, and being ordered and taken resulted—yeas 42, nays 7—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Brown, Barton, N. C. Blood, J. Blood, Crocker, Dutton, Foster, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, Moore, McCune, McClelland, McCullough,

Preston, Palmer, Parks, Ritchie, Ross, Signor, Stinson, Simpson, Thacher, Townsend, Wrigley, T. S. Wright, Williams—42.

NAYS—Messrs. Burris, McDowell, Porter, Slough, Stiarwalt, Stokes, J. Wright—7.

So the resolution was adopted.

Mr. THACHER. Mr. President, I offer the following:

"*Resolved*, That the committee appointed to enquire into the charge against a Delegate from Douglas county, be instructed to inquire into all charges connected with the Capital question, so far as the influences of the votes of delegates is concerned."

The resolution was adopted.

Mr. HOUSTON. Mr. President, I would like to present another resolution here:

"*Resolved*, That a committee of five be appointed to present to this Con- [*293] vention a plan *for the location of a temporary and permanent seat of government."

Mr. SLOUGH. I move to lay it on the table.

The motion was agreed to.

PHRASEOLOGY AND ARRANGEMENT.

Mr. GRIFFITH. Mr. President, I offer the following resolution:

"*Resolved*, That Col. Slough and Mr. President be added to the committee on Phraseology and Arrangement."

The resolution was adopted.

OFFICIAL REPORTER.

Mr. Ross. Mr. President, I have a preamble and resolution which I wish to offer, on behalf of the committee in relation to Reporting.

The committee on printing and preservation of the records submit the following:

"WHEREAS, The contract for Reporting the Proceedings and Debates of this Convention, awarded on the 7th of July to Dr. W. S. Bush, has been transferred to his agent, Mr. Ariel E. Drapier; and whereas, the latter party has performed the service under said contract, to the satisfaction of this body; therefore—

"*Resolved*, That the compensation for said service be allowed and paid directly to Mr. Drapier, in his own name, as though the original contract had been made with him as principal."

The report of the committee was concurred in, and the preamble and resolution adopted.

Mr. INGALLS. Mr. President, I offer the following resolution:

"*Resolved*, That the committee on investigation be instructed to report to-morrow morning at 8 o'clock."

Mr. Ross. I move to amend by inserting "three o'clock this afternoon."

Mr. INGALLS. I accept the amendment.

The resolution as amended was adopted.

ADJUSTMENT OF CLAIMS.

Mr. STINSON. Mr. President, the Report of the Commissioners of Claims, appointed under the Act of February 7th, which was presented here on the 11th instant, is now printed and officially before the Convention.

The report is as follows:

"*To the Convention to frame a Constitution and State Government for the State of Kansas:*

Pursuant to the provisions of the Act of the Territorial Legislature, approved Feb. 7, 1859, entitled "An Act to provide for the Adjustment and Payment of Claims," the undersigned Commissioners, duly appointed under said Act, respectfully report as follows:

That in view of the unfortunate circumstances that had attended the organization of the Territorial Government, the destruction of property that had taken place during the internecine war, and the excited state of public feeling arising from losses and outrages that the people of the Territory complained of, Governor Geary, in his message, dated January 12, 1857, used the following language:

'In traveling through the Territory I have discovered great anxiety in relation to the damages sustained during the past civil disturbances, and everywhere the question has been asked as to whom they should look for indemnity. These injuries—burning houses, plundering fields and stealing horses and other property—have been a fruitful source of irritation and trouble, and have impoverished many good citizens. They cannot be considered as springing from purely local causes, and as such, the subjects of Territorial redress. Their exciting cause has been outside of this Territory, and the agents, in their perpetration, have been the citizens of nearly every State in the Union. It has been a species of national warfare waged upon the soil of Kansas, and it should not be forgotten that both parties were composed of men rushing here from various sections of the Union; that both committed acts which no law can justify, and the peaceable citizens of Kansas have been the victims. In adjusting the question of damages, it appears proper that a broad and comprehensive view of the subject should be taken; and I have accordingly suggested to the General Government the propriety of recommending to Congress the passage of [*294] an Act *providing for the appointment of a commissioner to take testimony and report to Congress for final action, at as early a day as possible.'

Thereupon an Act was passed by the Legislature and approved February 23d, 1857, authorizing the appointment of a Commissioner, 'to audit and certify claims,' in accordance with the provisions therein specified. Hon. Hiram J. Strickler, who had served as Adjutant General of the Territorial Militia under the laws of 1855, and was presumed to have a full knowledge of the late condition and events of the Territory, was appointed such Commissioner. Pursuant to said Act, Gen. Strickler proceeded to the discharge of his duties specified, and published a notice containing the following paragraphs, and commenced taking testimony Sept. 1, 1857:

'NOTICE TO CLAIMANTS.—Whereas, under the provisions of "An Act to provide for the auditing of Claims," and the Act supplemental thereto, both passed and approved February 23d, 1857, the undersigned has been appointed commissioner 'to audit and certify all claims of all and every person or persons who may present the same for consideration' for

'1. (*Public*). Moneys actually and necessarily expended for the purpose of maintaining and carrying into effect the laws of this Territory, or for the purpose of suppressing any rebellion or insurrection, whether in sustaining the militia or any posse of the Marshal, or any Sheriff of any county in the Territory.

'2. (*Private*). Claims of all persons who may have sustained any

loss or damage in consequence of, or growing out of the difficulties in this Territory, by way of loss of property or consequent expenses, at any time since the passage of the Act to organize this Territory, viz: May 31, 1854. The said Act provides for the taking of testimony in support of all such claims, collection and certification of vouchers, and making a true and correct statement in duplicate of all such accounts—one to be laid before the next Congress of the United States, and the other before the next Legislative Assembly of Kansas Territory, to the end that proper and united efforts may be made to obtain from Congress compensation and indemnity for the losses, expense and damages incurred by the citizens of this Territory without distinction of party.'

The paragraph contained in Governor Geary's Message was the foundation for the presentation of a Bill in Congress by Gen. Whitfield, in January, 1857, designed to secure an appropriation for the objects specified; but the prevailing excitement in regard to Kansas affairs prevented final action upon it at that session.

During the session of Congress in March, 1858, Gen. Strickler forwarded to Washington, for presentation, his report and the testimony taken, as required by the said Act of February 23, 1856. The Territorial Delegate, Hon. M. J. Parrott, had the matter referred, and at the same session presented a Bill in relation to the losses sustained by the people of Kansas, the provisions [of] which he believed would meet the views and wishes of his constituents. The unsettled condition of Kansas Affairs and the continued troubles in the southern portion of the Territory, were regarded as sufficient excuse for the committee to refrain from making a practical report.

In January, 1858, General Strickler reported to the Legislature in regard to his proceedings. Upon that report no action was had. The Legislature of 1858 was the first in which the people of Kansas had had control. Upon the old issues of "Free-State" and "Pro-Slavery," party feeling continued excited. Owing to the position that a large portion of Free State settlers had previously assumed, antagonistic to a voluntary recognition of the laws passed by the Legislature of 1855, it was well known that many sufferers had not presented their claims, which mostly range under the "private class;" while, on the other hand, the amounts proven [*295] by and allowed to individuals for contributions *and expenses sustained, under the head of "public class," were of a character that the Free State men in that Legislature did not feel themselves bound to aid in obtaining compensation for. The whole subject, consequently, was again passed by without legislative action.

At the last session of the Legislature, 1859, Governor Medary presented Gen. Strickler's report in full. The report was printed, from which it appears that on 357 claims presented, he awarded on the private class $254,279.25; public class, $38,942.80. His report contained the names of claimants and amounts awarded, but furnished no clue to the nature of the claims, except by a perusal of the actual testimony taken in each case. Hundreds of claimants throughout the Territory, without distinction of party, had already made known their views in regard to the completeness of the report (not through any intentional neglect on the part of Gen. Strickler, but for reasons already referred to), and the Legislature deemed it expedient to act upon and present the matter to Congress in a spirit of harmony and conciliation—entirely divested of all party feeling and regardless of personal animosities. The following circular, which was the result of the joint action of a committee, composed of representatives of all

parties and interests, was laid before the Legislature, and its contents favorably received by that body:

INDEMNITY TO KANSAS SUFFERERS.

In another column will be found the Bill presented by Mr. Clark, "to provide for the payment of claims," of sufferers by the Kansas difficulties, to which we invite the attention of our readers. It presents a feasible plan for arriving at a correct and just estimate of the losses, and proposes a mode of relief which is worthy of calm consideration. The Bill, perhaps, is not perfect, and at first glance, without explanation, may not be received as favorably in all respects, as circumstances require, and the interests involved would warrant; but it can readily be amended so as to answer the object designed, without necessarily opening the door to a class of claims against which the feelings of the mass of the people of the Territory naturally revolt.

For some time past the subject has been under consideration by several gentlemen who were appointed a committee on behalf of the sufferers, without distinction of party, and they have corresponded with various members of Congress, and through them virtually ascertained the views and feelings of the Government, concerning the claims, as a matter of just indemnity. From the information obtained, it is evident that no Congressional action thereon can be had at the present session, for the following reasons: 1st. Because of the early expiration of the term, and the pressure of the general business. 2d. The claims are not yet collected together in such a shape as to warrant their presentation. 3d. The Secretary of the Treasury opposed the introduction of any matter having a tendency to deplete and embarrass the public treasury under present circumstances. 4th. The Administration members of Congress are opposed to having the subject presented in any form that may revive former discussions on Kansas affairs.

It is known that Mr. Buchanan has, in private conversations, expressed himself favorable to a proper indemnity of individuals, provided the Government can have the claims presented in such a form that the Territory stands as a voucher and sponsor for the reality and justness of the several demands; and that awards be made, on the auditing of claims, according to some general rule equally applicable to men of all parties, or by a tribunal fairly constituted and representing the several interests and views of the political parties involved. Many members of both Houses of Congress coincide in these views, but they will never consent to the appointment of a roving commission with power to come to Kansas and hear and redress grievances *ad libitum*. The whole subject must be compressed in a nutshell, and so presented as not only to avoid discussion, but to secure the [*296] *support of men of all parties. The next House of Representatives will probably [be in] opposition—the Senate, Democratic. Whatever measure of indemnity is proposed, must have such fair and harmonious antecedents in the Territory that Representatives of both parties may be called upon to stand together in rendering justice to their friends or fellow-partisans in the Territory. Unless a liberal policy be pursued—all parties unite in their efforts here—success in Congress will be very doubtful.

The Bill proposed looks to the General Government for indemnity for losses sustained by a great number of our citizens, on the general principle that a government is bound to protect the rights, persons and property of its subjects in return for the fulfillment of the duties of loyalty, obedience, support and contributions which the latter are compelled to

yield. The duties of the Government and the governed are reciprocal. By a surrender of a portion of his natural rights on becoming an integral part of civil society, man virtually places himself and property at the control of the Government and is entitled to protection of his individual rights. This doctrine was recognized in the Roman Civil Law, became a portion of the Common and Statute Law of England, was specially declared in the "Code Napoleon," and has long received the sanction and hearty approval of the people of our own country. When the Government has neglected or been unable to protect the people of different localities in their lawful rights, or the latter have been damnified through the action, non-action, or neglect of the Government, indemnity has been given repeatedly, as the claims of and allowances made to California, Oregon, Washington Territory, Florida and several of the States, for Indian depredations and otherwise, will show. The repeal of the Missouri Compromise revived the excitement and called [into] activity all the elements of strife, which had portended serious difficulty in 1820. Statesmen readily understood what might be apprehended as a natural result of the measure. However proper in itself might be the wiping out of a merely geographical line, as incompatible with the equality and unity of the States in political rights, the opening of our Territory to settlement under circumstances and in a manner calculated to invite higher sectional interests which, it was evident, would contend with each other for supremacy, was an experiment in self-government, and an evidence of reliance upon the patriotism and intelligence of the people, highly complimentary to the latter, but dangerous in its character. The government failed to perform its full duty by enforcing the principles of equal and exact justice and protection to all interests alike social and political. These, emigrants from all sections of the Union had a right to expect; these, the Government was bound to maintain. The result we have all seen to our sorrow. Instead of conciliating the Representatives of sectional interests by impartial justice, misrepresentations and frauds unparalleled in history induced the adoption of a policy on the part of the Administration, the real foundation of which, as well as its results, is now properly appreciated, and its injustice admitted by both instigators and instruments. The sooner amends are made by the General Government the sooner will peace, prosperity and justice prevail in our Territory. The moral as well as legal responsibility of the Government for the losses sustained, cannot be denied or repudiated.

The Bill now proposed authorizes the issue of certificates on awards made, upon the expectation that a Congressional appropriation will redeem them. This can be secured in the form proposed, by incorporating it in the Ordinance of the Constitution. The Territory owes it to its citizens to protect, and as far as possible, secure their rights. The success of this Bill will carry joy to the hearts of many a worthy household. The certificates, whether in the shape proposed or included in a funded debt, will be available and afford pecuniary relief to many.

Our people had been, for so long a time, working at cross purposes [*297] against each other; the *interests of the *bona fide* settlers had been so often made the football of politicians and partisans; the development of the material interests of the Territory had been so greatly retarded; the local difficulties arising out of the slavery question, directly or indirectly, had so often caused the shedding of blood; the passions of a considerable body of the people in certain portions of the Territory where suffering from the loss and destruction of property in 1856 then existed, had been so aroused, that the Legislature regarded it as the primary step

towards peace and prosperity to allay political asperities by an act of justice, that would respect the views and secure the rights of all, regardless of party proclivities. The unity of action thus proposed by gentlemen of all political parties, was regarded and hailed as a favorable omen, and one that could not fail to have a beneficial effect upon the future of our Territory. The fact that most of the losses were sustained by *bona fide* settlers, men of substance, men having families, men who had come here to make Kansas their home, presuming that they might here enjoy the same liberty of thought and speech and the same protection to what they understood and believed to be their rights of property, as in the States from which they came, was no longer a matter of doubt. It had been demonstrated to the satisfaction of all, that most of the outrages complained of had been perpetrated and property taken and destroyed by a class of irresponsible and reckless desperadoes drawn hither through the excitement and appliances of a political campaign and the intervention of parties and partisans outside of the Territory; that many of the desperadoes who came here were governed by self-interest instead of political principles, and that they, to a great extent, participated in the warfare, some one side and some on the other—in fact, *that outside intervention in Territorial affairs, contrary to the wishes and interests of the real settlers of Kansas,* caused and continued the prolonged strife. But for such intervention on either side, the real settlers would soon have settled their political differences in a legal and peaceable manner, provided the General Government had afforded them the protection and "fair play" guaranteed them by the Constitution. Time and the ballot-box were all that were necessary to demonstrate and establish whatever the people of Kansas might deem for their best interests.

With a patriotism and disinterestedness that could not fail to secure public approval party feeling was buried and the Act of Feb. 7, 1859, was passed and approved by the Governor.

AN ACT to provide for the payment of and Adjustment of Claims.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That three Commissioners shall be appointed as follows: One by the Legislative Council, one by the House of Representatives, and one by the Governor of the Territory, whose duty it shall be to audit and certify all claims for the loss of property taken or destroyed, and damages resulting therefrom, during the disorder which prevailed in this Territory from November 1st, 1855, to December 1st, 1856.

SEC. 2. Said Commissioners shall have power to fix the times and places when and where their sessions shall be held, and may adjourn from time to time and from place to place, at their discretion. The presence of two of said commissioners shall constitute a quorum for the transaction of business. Said commissioners shall prescribe and publish such rules and regulations concerning the taking of testimony as they may deem expedient, not conflicting with the laws of the Territory. They shall have power to send for persons and papers, to preserve order, issue subpœnas, and enforce the attendance of witnesses in the same manner, and with like effect as the district courts: *Provided,* That parties seeking to prove their claims shall pay officers' and witnesses' fees in the same manner as required by law in suits in said District Courts.

[*298] *SEC. 3. Before entering upon the discharge of their duties, said Commissioners and their officers shall each take and subscribe an oath before some competent officer, to support the Constitution of the United

States, and the provisions of the Act organizing the Territory of Kansas, and that they will faithfully and impartially perform the duties enjoined by this Act, which oath shall be filed with the Secretary of the Territory.

SEC. 4. Said Commissioners may appoint one or more clerks, whose duty it shall be to keep a true and proper record of the proceedings before the Commissioners, preserve all papers and testimony filed in relation to claims, and perform such other acts pertaining to that office as the Commissioners may direct. They shall be allowed for their services four dollars per day, and ten cents for every mile necessarily traveled.

SEC. 5. The compensation of said Commissioners shall be five dollars per day each, for every day actually engaged in the discharge of the duties imposed by this Act, and ten cents per mile for every mile necessarily traveled in the discharge of said duties, and their actual expenses for stationery, postage and room rent, shall be certified by them and audited by the Auditor of the Territory, and warrants be drawn therefor on the Territorial Treasurer. Warrants shall, in like manner, be drawn for said Commissioners and their clerk or clerks, for such sums as may become due to them from time to time for their services.

SEC. 6. Authority is hereby given to said Commissioners to fill any vacancy that may occur in their number by death, resignation or otherwise; and to administer oaths connected with the duties herein specified. And any person who shall swear falsely on any such investigation, whether a claimant or witness, shall be deemed guilty of perjury.

SEC. 7. It shall be the duty of said Commissioners to receive and examine the evidence heretofore obtained by the Commissioners appointed under the 'Act to provide for the Auditing of Claims,' approved February 23, 1857, and they may adopt or reject the same, or any part thereof, as shall to them seem just and right.

SEC. 8. The provisions of this Act shall only apply to citizens of this Territory, and those who were citizens at the time of the losses, and damages sought to be proven. Executors and administrators shall be permitted to prosecute claims in behalf of deceased persons.

SEC. 9. Said Commissioners may appoint a Sergeant-at-Arms, whose duty it shall be to serve all processes issued by the Commissioners, and who shall receive the same fees and mileage as are by law allowed for like services in the District Courts of the Territory, to be paid by the claimant.

SEC. 10. Upon the completion of the testimony and the recording of the awards in each case, the Commissioners shall, upon demand of the claimant, deliver to him a certificate of such decision or award. And on or before the first day of September, 1859, said Commissioners shall close their proceedings under this Act, and make up and file in duplicate in the office of the Secretary, and in the office of the Auditor of the Territory, a statement of all claims presented, and the amount, if any, allowed thereon; and they shall likewise file in the office of the Secretary of the Territory, all testimony, vouchers, papers and documents pertaining to their investigations.

SEC. 11. It shall be the duty of the Auditor of the Territory, upon the delivery to him of any certificate of award given by said Commissioners, to draw his warrants on the Treasurer of the Territory in such sums as may be required, for the amount therein named, in favor of the party to whom such award has been made, or to his order, and deliver the same on demand.

SEC. 12. It shall be the duty of any Constitutional Convention hereafter [*299] to assemble, to make suitable provisions for securing the *payment of said warrants by the Federal Government, by incorporating in the ordinance to be submitted with the Constitution formed a provision to that effect.

SEC. 13. Nothing in this Act shall be so construed as to authorize the payment of the warrants issued, in accordance with its provisions, before the first day of January, 1865, unless provision shall be made for funding these warrants with the other indebtedness of the Territory, or unless Congress shall sooner make provision for their payment; but said warrants shall bear interest at the rate of six per cent. per annum.

SEC. 14. This act shall be in force from and after its passage.

Approved February 7, 1859.

S. MEDARY,
Governor of Kansas Territory.

AN ACT Supplementary to an Act entitled 'An Act to provide for the Payment of Claims.'

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That the Commissioners appointed under and by virtue of the act of which this is a supplement, before entering upon their respective duties, shall enter into bonds to the Territory of Kansas in the sum of ten thousand dollars each, with good and sufficient security to be approved by some one of the Judges of the Supreme Court of said Territory, conditional upon the faithful discharge of their respective duties, and shall take and subscribe an oath before a judge of said court, to support the Constitution of the United States, and the Organic Act of this Territory, and to faithfully and impartially discharge their respective duties.

SEC. 2. There shall be elected on joint ballot of both branches of the Legislative Assembly, some suitable Attorney, whose duty it shall be to attend the said Commissioners, and the said Attorney shall take an oath for the faithful discharge of the duties of said office, with power to subpœna witnesses and attend to all business wherein the Territory is interested, for the purpose of securing an honest and faithful investigation of any and all claims which may be presented for trial before said Commissioners.

SEC. 3. That said Attorney so appointed shall have such sum allowed him for his services as will be provided by law.

SEC. 4. It shall be the duty of said Commissioners to make out and report on the first Tuesday of July next to the Constitutional Convention, the first day of its meeting at Wyandotte, a complete report of their actions, which said report shall be signed by the said Commissioners and countersigned by the Attorney appointed for and on behalf of said Territory, and shall report all the claims presented before said Commissioners for allowance, also all the claims by them allowed and all proceedings by them had upon the same, to the next annual session of the Legislature of this Territory.

SEC. 5. That the said Commissioners are hereby prohibited from issuing any Territorial scrip or bonds.

SEC. 6. That the certificate issued by the Governor in pursuance of the tenth section of the act to which this is supplemental shall not be con-

strued as binding the Territory for the payment of said claims until the same shall be fully authorized by subsequent legislation on the part of the Territory.

SEC. 7. This Act to be in force from and after its passage.

We must be excused for using party terms in an official report, but the peculiar circumstances involved in Kansas politics are of such a character, and the position of affairs is so complicated, that we confess that the points necessary to be eliminated for a proper understanding of the subject cannot otherwise be arrived at, except by a course of circumlocution now quite unnecessary.

Under the provisions of said Act, the Governor appointed Edward [*300] Hoogland, the Coun*cil elected Henry J. Adams, and the House of Representatives elected Samuel A. Kingman, as Commissioners. The object aimed at in distributing the selection in that manner, was to divest the Board of a partisan character, by combining therein representatives of the different phases of Territorial politics.

Under the Supplementary Act, Hon. Wm. McKay was on joint ballot of both Houses, duly elected Territorial Attorney, in regard to said claims, who has been with us, and discharged the duties specified.

The organization of the Board of Commissioners was effected at Leavenworth City on the 21st day of February last, and ever since that date we have all been constantly engaged in the discharge of the duties devolved upon us by said Act. Respecting the good faith implied by the action of the Legislature, and in order to avoid even the appearance of party precedence, the selection of a Chairman or President of the Board was dispensed with.

On organizing, we adopted and published throughout the Territory, for a long time, the following Rules and Regulations.

'KANSAS SUFFERERS—NOTICE TO CLAIMANTS.

Whereas, under the provisions of "An Act to Provide for the Adjustment and Payment of Claims," approved Feb. 7, 1859, the undersigned have been duly appointed Commissioners "to audit and certify all claims for the loss of property taken or destroyed, and damages resulting therefrom, during the disorder which prevailed from Nov. 1st, 1855, to December 1st, 1856." The said Act provides for the taking of testimony in support [of] or opposition to all such claims; the preservation of all such testimony and accompanying vouchers; and that duplicate copies be made thereof, for the purpose of presenting such claims, in a tangible form, to the Congress of the United States for payment, in connection with the ordinance to accompany the Constitution under which Kansas may apply for admission into the Union.

To the end that proper and united efforts may be made to obtain from Congress compensation and indemnity for the losses and damages sustained by the citizens of this Territory, without distinction of party, notice is hereby given that the undersigned Commissioners, as aforesaid, will hold sessions, and receive and act upon claims and proofs under said Act, according to the following

RULES AND REGULATIONS.

1. All persons claiming the benefit of said Act, will do so by sworn petition in writing, reciting in each case all the facts, circumstances and dates upon which the claim is founded, and present the bills of items or other vouchers duly authorized.

2. All claims or amounts presented must be supported by the fullest proof possible to be obtained. The highest legal evidence available will be required.

3. All property claimed for as taken or destroyed, must be described with reasonable certainty, and the value thereof particularized and stated.

4. The testimony of two disinterested witnesses, upon a material point of statement of facts, will be received as sufficient *prima facie* evidence.

5. In case of the absence of material witnesses from the Territory, either Commissioner, will, upon application, issue a suitable commission for the taking of necessary testimony.

6. Access will be granted, upon application, to any evidence in possession of the Commissioners, or heretofore filed with Commissioner Strickler.

7. All applications for indemnity or claims for losses must be made anew to the present Board without delay.

8. The Act applies only to citizens of the Territory and those who were citizens at the time the losses and damages sought to be proven accrued.

9. The claims specified in the Act are those arising from the taking and [*301] destruction of prop*erty—*not for services or voluntary contributions.*

10. Executors and Administrators have the right to claim on behalf of deceased persons.

11. The petition and vouchers can be filed with the Central Clerk, Caleb S. Pratt, Lawrence, or with either of the Commissioners.

12. Each petition and accompanying vouchers, will be forthwith examined by the Commissioners severally, for information, and then delivered to the attorney for the Territory.

13. Public sessions of the Commissioners will be held at Leavenworth, Lawrence, Osawatomie, Tecumseh and Fort Scott, (and perhaps in other localities where the interests of the Territory or the convenience of parties may require), at times hereafter to be designated.

14. The Commissioners desire as early information as possible *of all claims intended to be presented.* Such information, giving the names and residences of applicants and their witnesses, may be communicated by letter to the central clerk or either of the Commissioners, *in advance of the filing of the petition.* This is necessary in order that the Board may be prepared as early as practicable to estimate the amount and locality of business to be disposed of.

15. All petitions and applications will be submitted to the attorney on the part of the Territory (Judge McKay) as soon as practicable, for examination; and upon his suggestion parties will be required to produce before the Board, in public session, such witnesses as he or either of the Commissioners may desire to examine further. Parties will be duly notified of the time and place, when opposing testimony to any of their claims will be produced and heard.

16. As a general rule the personal attendance of witnesses, whose testimony may accompany petitions, will be required by the Board at a public session, for public examination or cross-examination, in relation to the facts set forth in such petitions.

17. Subpœnas will be issued, on application of parties, to compel the attendance of witnesses—claimants paying officers' fees for serving.

18. A final hearing may be had upon any petition, at any public session, where the claimant may be in attendance with his witnesses—provided such petition shall have been filed ten days before such hearing is de-

manded; but such ten days may be waived by the Territorial attorney or either [any] two of the Commissioners.

19. Awards will be made as soon as practicable after final hearing.

20. The first public session of the Board will be held at the Johnson House in Lawrence, on the first Monday of March next, and continue from day to day as long as business may present or render advisable.

21. When petitions or accompanying affidavits are sworn to before a justice of the peace, the county clerk's certificate and seal should be attached.

The act above mentioned is broad in its provisions, and designed to benefit, without distinction of party, all *bona fide* citizens of the Territory who sustained losses within the period specified. All such are requested to come forward as soon as possible and present just and honest statements of their losses, and unite their efforts in accomplishing the object in view, by enabling the undersigned to present a complete, full, fair and impartial statement of the losses and damages that have been entailed upon the citizens of Kansas by the political and social questions devolved by Congress upon them for settlement.

Dated at Leavenworth City, K. T., February 21, 1859.

EDW. HOOGLAND,
HENRY J. ADAMS,
S. A. KINGMAN,
Com'rs of Claims.

Accordingly, sessions have been held in all the counties where the num-
[*302] ber of claimants *warranted; and by advertisements from time to time, and personal exertions, every possible facility has been afforded to the sufferers to present their claims and produce their testimony, with as little trouble and expense to them as possible.

Since the date mentioned (Feb. 21, 1859), we have received petitions and taken testimony in 463 cases. Awards have been made to 417 claimants, amounting to $412,978.03. Eighteen claims stand suspended for want of proof. Two cases have been withdrawn, and 26 claims have been wholly rejected as inadmissible. The total amount of suspended claims is $25,-972.22, probably two-thirds of which will be properly established.

Amount of crops destroyed, $37,349.61; number of buildings burned and destroyed, 78; horses taken or destroyed, 868; cattle taken or destroyed, 533. Amount of property owned by pro-slavery men, $77,198.99; property owned by Free State men, $335,779.04. Property taken or destroyed by pro-slavery men, $318,718.63. Property taken or destroyed by Free State men, $94,529.40. For particulars of names of claimants, amounts awarded, and the principal items of said claims, we respectfully refer to the tabular statement hereto annexed, as a part of our report, and marked "A." Of the three hundred and fifty-seven claims audited by the former Commissioner, one hundred and ninety-six have been presented to us for adjustment, and the action thereon will be found in the said statement. Doubtless nearly all the remainder are abandoned by the parties, or were originally presented by persons who have since removed from the Territory. We know, however, that there are quite a number of just and meritorious claims, which either are not submitted, or, according to the rules by which we have been governed, could not be admitted under the present law. We think fifty thousand dollars, in addition to the awards made, will be sufficient, with close inspection, to discharge all such demands that would probably be presented by actual citizens of Kansas.

It is hardly necessary for us to allude to the extent and character of our labors. The result is before you, and to the testimony taken in support of the claims we earnestly invite your attention. The cases are all ready for your inspection. In all cases we have required the fullest and most satisfactory evidence that could be obtained, and have made no award unless we believed it warranted by the proof and the language, spirit and intent of the act of February 7, 1859, under which we were acting.

We will not enlarge upon the character and bearing of the testimony on file. Many historical facts and incidents, as well as details, which were for a long time regarded as party or individual secrets, are developed and distinctly put upon the record. The future historian will find in the testimony taken, reliable statements by the actors or eye-witnesses of many interesting and important events, which have heretofore assumed more or less prominence in the public mind, and the particulars of which have been incidentally and necessarily drawn out in the progress of our investigations. Without assuming to direct, advise or control the language or character of any of the revelations thus made, we have permitted witnesses to tell their stories in their own way, on either side; and, irrespective of the "complimentary" terms in which some of the petitioners speak of the respective parties in 1856, we have regarded their ebullitions of feeling as the natural result of the wrongs suffered, the murders committed, the driving off from their claims of defenceless women and children, the sacking of towns, the burning of dwellings, the destruction of crops, the plundering of households, the stealing [of] horses and cattle, and other unlawful acts, and not attempted to check their expressions; for men of both parties, and their [*303] families *had the same complaints to make against those whom they believed to have been their enemies. But the excesses committed by those claiming partizanship in the war on one side, bear little equality with those charged on the other, so far as the proofs are before us.

It is an admitted fact, that in the early stage of the difficulties, an invasion and assumption of the rights of the actual, *bona fide* settlers of Kansas (claiming legality through the official certificates of Governor Reeder), led to resistance against what was regarded by the majority as tyrannical and unconstitutional enactments, which had for their ultimate object the establishment of an institution not consonant with the views and wishes of such majority, and brought the latter into collision with the Territorial authorities. The federal government recognized and sustained the legislative authority on record. The ballot box, violated on one hand and rejected on the other, and the malcontents forced into a *prima facie* illegal and factious position, it is not to be wondered at that misconception of facts prevailed abroad, or that violence, bloodshed and carnage ensued. An assailing force was introduced from abroad to sustain the laws. Resistance took organization for defence. A compromise was effected, but it proved only an armistice to recruit forces. Both parties became exasperated. Sympathizers and adventurers from North and South rushed into the Territory, some as emigrants, others as armed regiments. May, 1856, witnessed an assault upon a city by an armed force, using artillery; the assailants alleging and many believing that they acted under authority of the United States Marshal or the Territorial laws. A mutual guerrilla warfare ensued. Bands of armed men possessed and scoured the Territory from May till September. All law was abolished. Settlers who participated least and discountenanced the proceedings, suffered the most loss. A relentless plundering and warfare was kept up in many localities. Rob-

beries were not always confined to political opponents. Hundreds of families were plundered, and other hundreds were compelled to leave their homes and seek safety in flight, abandoning their all. The roads were possessed and guarded by guerrillas. The mails were stopped and robbed. Communication with the Northern and Eastern States was principally cut off. The U. S. troops interposed for the establishment of law and order. In August, hundreds of armed men came in from Iowa and Nebraska, and actively took the field, according to their sympathies. Alleged guerrilla parties were by them attacked and dispersed. Again a neighboring State interfered. A defenceless town was attacked and entirely burned. September 1st, the largest city in the Territory witnessed the expulsion of many of her citizens, the sacrifice of their property and the shedding of blood. Desperation and revenge induced more active retaliation. Again a neighboring State intervened, and an army of two thousand eight hundred men was organized, and marched forty miles into the Territory, to expel or exterminate opponents. Governor Geary, by diplomacy, diverted them from their purpose. They were disbanded and retired from the Territory, committing murders, robberies and outrages. But the Governor finally restored peace. Soon after the Governor's proclamation against armed bands was published, hundreds of adventurers retired from the Territory, in the directions whence they came, taking with them the results of their expeditions. These facts are in evidence in many cases now on file before us.

From all our investigations, we are confident that the entire loss and destruction of property during the warfare, from November 1, 1855, till December 1, 1856, including the fitting out of the several armed expeditions, and the private losses incurred on both sides, could not have been less than two millions of dollars ($2,000,000). We believe that at least [*304] one-half of that amount was directly *sustained by and fell upon actual citizens of Kansas—the *bona fide* settlers. This opinion is formed: 1st. From the amount of losses *claimed* before us, (and which we have no doubt were actual losses and expenses to the individuals, but a large proportion of which we could not allow under the act of February 7, 1859). 2d. From the amounts proven up before the former Commissioner, and which have not been presented to us for adjustment. 3d. From the number of settlers who were driven away from the Territory and have never returned, being spirit-broken and discouraged by the scenes of 1856.

Although not within our province, we may be excused for stating, that from the most reliable information that we have been able to gather, by the secret warfare of the guerrilla system, and in well known encounters, the number of lives sacrificed in Kansas during the period mentioned probably exceeded rather than fell short of two hundred. Many affairs in which life was sacrificed (on either side) were kept secret, and the particulars are only known to the participants. The guerrillas, from motives of policy, seldom made known the result of their operations. But the number of missing persons, and the letters of inquiry for individuals addressed so frequently from all parts of the Union to citizens of Kansas, have a meaning and significance not to be mistaken.

That the excitement in the Eastern and Southern States in 1856 was instigated and kept up by garbled and exaggerated accounts of Kansas affairs, published in the Eastern and Southern newspapers, is true, most true; but the half of what was done by either party was never chronicled! Is it then to be wondered at, that hundreds of honest and peaceable settlers, who deemed the outrages and robberies perpetrated upon them to have

been aimed at them individually, on account of their political but really unobtruded sentiments, should feel a dangerous degree of bitterness towards those who had deprived them of the comforts of life and blasted their early prospects in the Territory? May we not look at the revelations now made in a philosophical light, and by presenting to the country, in the most practical shape, well established facts and their results, contribute our mite to the science of political economy and public policy? The facts stated, develop the dangerous tendencies that still exist, to a great extent, in the public mind, and must convince the skeptical that real peace, friendship, cordiality and neighborly sympathy will never have full sway over the hearts of those aggrieved, so long as their wrongs are suffered. The old fires are liable to be relighted at any moment. Old antipathies will over-ride all political issues, however important. In many instances, however, Free State men have voluntarily come up and testified to important facts in favor of pro-slavery men, and pro-slavery men have done the like for their former opponents; in others, political or sectional difficulties have been candidly explained and mutually traced to their origin, without prejudice to the honor or principles of either partisan; and in others again, men have risen above the mere demands of party strife and party influence, and sought to promote the future welfare and aggrandizement of the Territory, shoulder to shoulder, by securing, as far as possible, indemnity to those who were the victims of circumstances that the people of the Territory could not control, but which the General Government was in honor and in duty bound to protect them against, by maintaining inviolate the purity of the ballot-box on the one side and the rights of property on the other. To such men, whether in Congress or in the private abode of the squatter—whether in the Legislative hall or a Constitutional Convention, the candid judgment of the people of a growing and prosperous State will in due time do justice.

The movement in regard to obtaining from the General Government a [*305] just indemnity to *the sufferers, is not a party movement. It is founded on justice; it is equitable; it is due to the people; it is due to those who participated in the struggle of 1856, in defence of their honest convictions; it is an important step towards obtaining a demonstration of the natural justice and generosity of the American character, and is proposed and urged at a time when a combination of circumstances leaves no doubt of its success, as the more satisfactory condition of affairs in the Territory during the present year demonstrates that truth and justice are no longer overruled by misrepresentation and fraud.

To the following extracts from the late Commissioner's report, submitted to Congress, March, 1858, we invite attention, as showing the light in which the subject has been and is yet viewed by the representatives of the Administration, and adducing strong reasons for relying upon the General Government for that indemnity to which the sufferers are justly entitled:

"It cannot be denied, that from the commencement of the agitation relative to the organization and opening of the Indian Territory, it was foreseen by statesmen and politicians, in all parts of the Union, that a great principle was to be settled, that public excitement would arise, and that consequences dangerous to the peace and welfare of the Union might result from attempting to blend together the principles and interests of people from different portions of the Union, who were alike ignorant of the true social condition and views of each other, and equally prejudiced by education and political associations, against what one or the other regarded as inherent and inalienable rights.

The Kansas-Nebraska act, in effect, destroyed all compromises, and vir-

tually acknowledged the right of the people of the South to carry their peculiar institutions and property to the extreme North; while it equally sanctioned the right of the people of the North to emigrate to territory south of 36 deg. and 30 min., and there establish their views and policy, if numerically superior to those who affiliate in sentiment and action with the people of the Southern States. Kansas, from its salubrity of climate, fertility of soil, commercial advantages, geographical position, and mineral and agricultural wealth, as well as its location near the old compromise line, was at once regarded by all parts of the Union as the decisive spot where the principles referred to were to be definitely settled, and the future progress or prohibition of the institution determined.

The issue was made—the trial has been had—the verdict of the people has been rendered, and it becomes the duty of all good citizens, without distinction of party, peaceably to submit to the decision of the majority.

The agitation consequent upon the trial is about to terminate. The majority of the people, in the formation of a State government, will doubtless express and enforce their own views.

While it is a matter of great congratulation that the great issue, with its trials, dangers, losses and difficulties, has thus been brought to a termination, the General Government, as the representative and agent of all the States, owes to the people of Kansas, to the pioneers, to the settlers, the champions of public opinion in the States from which they came, a debt of gratitude. The United States opened the Territory for settlement under the peculiar circumstances—emigration was stimulated, an ultra political element full of prejudice and sectionalism, which had long disturbed the country, was here brought into the practical issues of life, aggravated by outside interference on the one side and a total failure upon the part of the "Federal arm" on the other, to preserve the peace, maintain order, and protect the person and property of loyal and peaceable citizens from the outrages of marauders. The apple of discord, which had so long created trouble and anxiety in the halls of legislation at Washington, was cast among those who had sought to make their homes upon the beautiful prairies of Kansas, and for the contentions that thus arose the General Government is responsible. It is confidently believed by hundreds of all parties throughout the Territory that Congress should and would make an appropriation for the reimbursement and indemnification of those who have sustained losses directly resulting from the troubles incident to the settlement of the Territory. Political parties and residents of one portion of the Union or the other, view the acts of their opponents in Kansas unfavorably.

But common justice, and a reasonable respect for men who claim the prerogatives of American birthright, demand that the acts of all parties in Kansas be regarded as the legitimate result of the action of the General Government. The mantle of mutual forgiveness must be spread over all that is passed, and the actors and participants in the Territorial [*306] *troubles be regarded by their opponents as men who zealously contended for their rights and the establishment of principles in which their faith and confidence was sincere. Making due allowance for each other under these circumstances, and uniting their efforts to present the facts to Congress in the manner contemplated by the act under which this commission originated, not doubting that the many worthy and patriotic men who have sustained losses will have their grievances redressed by the authority to which they have a right to present their just demands.

In reviewing the evidence, it will be seen that the proof in some cases is comparatively slight, in others overwhelmingly convincing.

It must be borne in mind, that as incident to a state of civil war, the disappearance of individuals, loss of papers, and individual asperities of feeling on the part of persons who might be useful to claimants, are to be expected. The papers herewith submitted are as complete as could be expected under the circumstances."

Such was the language of the former Commissioner, an appointee of the Representative of the General Government, in his report to Congress above mentioned. His position, and familiarity with the events alluded to, entitled it to weight and consideration, and secured for his report a favorable reception, which, but for the reasons already given would, probably, have resulted in specific action. We quote the language now, for the purpose of showing the position assumed, and the admissions then frankly made.

In the discharge of our duties as Commissioners under the law, while we have not felt bound to regulate our proceedings by all the technical rules of procedure which govern courts of law, we have nevertheless been guided in our investigations and decisions by the rules of evidence and those great principles of law which the experience of ages has shown to be safe guides to truth and justice; and although we have labored under a heavy sense of responsibility and earnest desire to do justice to all parties, we dare not claim, or even hope, that in all cases we have been able to do exact justice to claimants. We do not doubt but in some instances claimants may have proved more than they could justly claim; and again, we have, no doubt, reduced or rejected claims that were meritorious, because the proof was not sufficient to justify us in making an award. We have felt bound to decide according to the evidence which we have put on record, and to which we invite your attention.

We take occasion here to express our regret that the public mind should have been misled, as we fear it has to some extent, in regard to the amount and character of the awards, by published statements destitute of truth, and by false conclusions drawn from these erroneous statements. Whether private malice or partisan feeling may have dictated such reports, we are unable to say, and can only regret that men who profess a zeal for truth and justice should so far have neglected truth, and by their reckless statements, made without the slightest knowledge of the facts, created a feeling in the public mind which tends to put in peril the only chance a large and meritorious class of our people have of getting from the Federal Government indemnity for sufferings and losses resulting from the neglect of that government and its failure to extend that protection to our people which was their due.

Dated at Wyandotte, K. T., July 11, 1859.

EDWARD HOOGLAND,
HENRY J. ADAMS,
SAMUEL A. KINGMAN."

"WYANDOTTE CITY, K. T., July 11, 1859.

Having examined the foregoing report, I hereby approve of the same.

WILLIAM MCKAY, Att'y."

[*307] ***TABULAR STATEMENT "A"** *accompanying Report of Commissioner of Claims, under Act approved February 7, 1859—Presented to the Convention, according to requirements of said Act, July 11, 1859.*

No.	NAME.	County.	Claim.	Award.	Crops Destroyed.	Houses.	Horses.	Cattle.	Owned by Pro-Slavery.	Owned by Free State.	Destroyed or taken by Pro-Slavery.	Destroyed or taken by Free State.	Remarks.
1	'Sarah E. Hoyt	Douglas	$650.00	$610.00						$610.00	$610.00		
2	'Charles Freeman	Douglas	3,376.50	3,193.00						3,193.00	2,693.00	$500.00	
3	*A. Cutler	Douglas	550.00	425.50						425.50	425.00		
4	‡Stephen Bluejacket	Shawnee Reserve	2,819.50										Rejected.
5	'Joseph B. Swayne	Douglas	1,075.00	611.80	$432.00					611.80	611.80		
6	'Charles Newman	Douglas	100.45	100.45			1			100.45	100.45		
7	'William Breyman	Douglas	1,443.50	567.45	250.00			3		567.45	567.45		
8	'John A. Wakefield	Douglas	4,328.00	4,241.00	1,000.00	2	1	3		4,241.00	4,241.00		
9	'Harrison R. Rawson	Douglas	1,175 00	857.90	650.00					857.90	857.90		
10	*Mark W. Delahay	Leavenworth	17,900.00	8,050.00						8,050.00	8,050.00		
11	Robert F. Barber	Douglas	299.00										Rejected.
12	'Thos. M. Pierson	Douglas	600.00	316.25			2			316.25	316.00		
13	Frank Quintal	Leavenworth	1,776.64	1,690.08						1,690.08	1,690.80		
14	'Wm. C. Bridges	Douglas	585.00	442.75	50.00	1		7		442.75	442.75		
15	*David Burton	Douglas	2,025.00	954.50	60.00			18		954.50	954.50		
16	*Rufus S. Bassett	Douglas	422.00	370.30	10.00		2	2		370.30	370.80		
17	'John A. Baillie	Douglas	1,801.00	921.15	375.00		2			921.15	921.15		
18	Baker & Street	Franklin	932.70	932.70			2		932.70			932.00	
19	'Erastus B. Heath	Douglas	3,044.35	2,455.73	300.00	1	2			2,455.73	2,455.73		
20	'Samuel Walker	Douglas	1,555.00	891.25	379.00	1		2		891.25	891.25		
21	'Thomas Bickerton	Douglas	1,012.00	780.20	534.00					780.20	780.20		
22	*George Witherell	Leavenworth	4,662.40	2,199.20		1				2,199.20	2,199.02		
23	'Susanna Patterson	Douglas	525.00	525.00			2			525.00	325.00	200.00	
24	rClark Stearns	Douglas	450.00	345.00			2			345.00	345.00		
25	rGeorge H. Snyder	Douglas	2,445.00	2,034.35	850.00	1				2,034.00	2,034.00		
26	rHenry L. Baldwin	Douglas	409.25	298.25	50.00			1		298.25	298.25		
27	rWm. M. Hazeltine	Douglas	932.00	480.75	405.00					480.75	480.75		
28	rCharles H. Rand	Douglas	161.00	155.75			1	1		155.75	155.75		
29	rHenry Hurd	Douglas	1,160.00	552.00	270.00	1		10		552 00	552.00		
30	rArtemas W. Dole	Douglas	300.00	278.30				2		278.30	278.30		
31	rHenry Atherton	Douglas	200.75	115.86	115.86					115.86	115 86		
32	rCharles Dickson	Douglas	350.00	244 37	63.50	1	1			244.36	244 37		
33*	rCharles H. Lovejoy	Douglas	100.00	74.75						74.75	74.75		
34	rLyman Rowley	Douglas	1,110.00	258.75						258.75	258.75		
35	rJoseph Shuler	Douglas	112.00	71.30				2		71.30	71.30		

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36	rJohn S. Gingerick	Douglas	470.00	425.50			3	1		425.50	425.50		
37	rMahlon K. Moore	Douglas	117.00	117 00						117.00	117.00		
38	rNewell W. Spicer	Douglas	323.00	319.70			1			319.70	319.70		
39	rL. B. Dennis	Douglas	940.00	391.00	100.00					391.00	391.00		
40	rEliza B. Purdon	Douglas	4,7.0.00	3,045.00	400.00	1		2		3,046.00	3,046.00		
41	dWilliam Justice	Douglas	600.00	547.69			4		547.69			547.69	
42	rRobert Morrow	Douglas	34.50	34.50						34.50	34.50		
43	rJames McGee	Douglas	858.00	756.70	300.00		1	7		756.70	756.70		
44	rWalter D. Jamerson	Douglas	420.73	367.83			2	5		367.83	367.83		
45	rC. W. Southmayd	Douglas	230.00	230.00			1			230.00	230.00		
46	rFrank McD. Hunt	Douglas	2,?30.00										Rejected.
47	rSolem Gleason	Douglas	402.50	402.50			2			402.50	402 50		
48	rCharles J. Garrett	Douglas	256.50	207.00				3		207.00	207.00		
49	rWilliam Livermore	Douglas	120.00	69.00	60.00					69.00	69.00		
50	rR. D. Nichols	Douglas	850.00	57.50						57.50	57.50		
51	rFrank M. Baldwin	Douglas	158.00										Rejected.
52	rEli S. Thompson	Douglas	450.00	372.60	324.00					372.60	372 60		
53	rHugh O'Neil	Douglas	440 00	258.75			2	2		258.75	258.75		
54	rEzekiel A. Coleman	Douglas	574.00	427.05	182.00		2			427.05	427.05		
55	rAsaph A. Faxon	Douglas	2,175.00	954.30				26		945.30	945.30		
56	rJ. H. Thompson	Douglas	540.00	234.60	189.00					234.60	234.60		
57	rL. S. Hall	Douglas	1,275.00										Suspended.
58	rMorris Harttman	Douglas	681.00	681.00						681.00	681.00		
59	rWilliam Graham	Douglas	595.00										Rejected.
60	dWilliam McKinney	Douglas	300.00	200.00			2		200.00		200.00		
61	rArthur Gunther	Douglas	693.80	510.40		1				510.40	510.40		
62	rS. R. Shepherd	Douglas	160.00	160.00			1			160.00		160.00	
63	rFrancis O. Tolls	Douglas	161.30	161.30			1			161.30	161 30		
64	rJohn Stroup	Douglas	7,005.00	4,605.00		1		9		4,605.00	4,605.00		
65	rAaron E. Platts	Douglas	158.12	158.12						158.12	158.12		
66	rSheldon C. Russell	Douglas	161.00	161.00						161.00	161.00		
67	rAlfonso Jones	Douglas	249.00	171.35	70.00			2		171.35	171 35		
68	rJohn Roe	Douglas	150 00	115.00			1			115.00	115.00		
69	rDaniel Scannel	Douglas	200 00										Suspended.
70	rDaniel W. Palmer	Douglas	618.00	135.70						135.70		135.70	
71	dJames P. Carroll	Douglas	203.00										Suspended.
72*	rTurner Sampson	Douglas	120.75	120.75						120.75	120.75		
73	rThomas Oliver, Sr	Douglas	4,004.16	4,004.16		3	6			4,004.16	4,004.16		
74	rJarres Dumars	Douglas	963.00	402.50			2			402.50	402.50		
75	rJames McGue	Anderson	207.00	207.00			2			207.00	207.00		

*Beginning of page 309 in edition of 1859.

TABULAR STATEMENT "A"—CONTINUED.

No.	NAME.	County.	Claim.	Award.	Crops Destroyed.	Houses.	Horses.	Cattle.	Owned by Pro-Slavery.	Owned by Free State.	Destroyed or taken by Pro-Slavery.	Destroyed or taken by Free State.	Remarks.
76	rCharles Robinson	Douglas	$26,240.00	$23,953.00		2	1			$23,953.50	$23,953.00		
77	rGeorge Cutter	Douglas	5,065.00	74.75						74.75	74.75		
78	rDavid O. Kee'e	Leavenworth	260.00	126 50			1			126.50	126.50		
79	rGs. Jenkins' estate	Douglas	12,350.00	10,292 50	$720.00		4	6		10,292.50	10,292.50		
80	rSamuel C. Smith	Douglas	135.82	135.82						135.82	135.82		
81	rJoseph J. Bover	Douglas	335.00	57.50						57.50	56.50		
82	rJames S. Emery	Douglas	3,290.00	1,420.25						1,420.25	1,420.25		
83	rRobert McFarland	Douglas	1,224.00	910.15	100.00		4	7		910.15	910.15		
84	rHenry B. Lacy	Douglas	2,021.00	9.20						9.20	9.20		
85	rJohn M. Lacy	Douglas	63.25	63.25				1		63.25	63.25		
86	rJ. D Harrington	Douglas	150.00	115.00			1			115.00	115.00		
87	rJ. G. McClellund	Douglas	847.90	405.85	310.00					405.85	405.85		
88	rFerdinand Fuller	Douglas	210.37	161.00						161.00	161.00		
89	rHenry Eggart	Douglas	540.00	293.28			1	4		293.28	293.28		
90	rBenoni C. Tulley	Douglas	1,445.00	488.75						488.75	488.75		
91	rWiley Jones	Douglas	260.00										Suspended.
92	rAaron Neal	Douglas	255.00										Suspended.
93	rArchibald Harris	Douglas	284.00	284.00	200.00			1		284.00	284.00		
94	rS. C. Harrington	Douglas	1,040.00	828.00						828.00	828.00		
95	rJohn W. Pennoyer	Leavenworth	979.00	690.00						690.00	690.00		
96	rCharles A. Wright	Douglas	600.00	287.00			2	5		287.50	287.50		
97	rJohn Morehead	Douglas	1,350.00	503.70	288.00		1			503.70	503.70		
98	rThomas Wells	Douglas	675.00	300.00				3		300.00	300.00	$80.00	
99	rJohn W. Taylor	Douglas	80 00	80.00	80.00					80.00			
100	rA. M. Whedon	Douglas	765.00	460.00						460.00	460.00		
101	rShaler W. Eldridge	Douglas	60,177.00	49,772.00		1	1			49,772.00	49,772.00		
102	rMilligan Wallace	Douglas	1,300.00	411.70	300.00					411.70	411.70		
103	rD. N. Montague	Douglas	443.00	49.45						49.45	49.45		
104	rWilliam S. Hull	Douglas	1,594.00	1,029.25		1		2		1,029.25	1,029.25		
105	rTaylor Stevens	Douglas	2,485.40	1,380.00						1,380.00	1,380.00		
106	rS. Southerland's estate	Douglas	1,571.00	926.90						926.00	926.00		
107	rMichael Gleen	Douglas	400.00	201.25						201.25	201.25		
108	rHenry Bronson	Douglas	100.00	90.10						99.10	90.10		
109	rGeorge H. Ke er	Leavenworth	2,342.00	2,000.00						2,000.00	2,000.00		
110	rThomas H. Thomas	Douglas	280.30	280.30						280.30	230.80		

111	rJohn G. Crocker	Douglas	465.00	330.00					1,000.00		330.00	230.00	100.00	
112*	dH. A. Lowe	Leavenworth	2,050.00	1,000.00									1,000.00	
113	rJohn Kirth's estate	Leavenworth	320.00	74.75							74.75	74.75		Rejected.
114	dThomas Fahey	Leavenworth	1,600.00			1								
115	rJohn Kelly	Leavenworth	235.75	235.75			2				235.75	235.75		
116	rSamuel H. Cook	Leavenworth	146.00	146.00			1				146 00	146 00		
117	rJeremiah Howald	Leavenworth	590.00	207.00			1	2			207.00	207.00		
118	rSamuel R. Trower	Johnson	460.00	460.00	350.00		2		287.50		460.00	460.00		
119	dAlfred Justice	Leavenworth	287.50	287.50			9		1,035.00				287.50	
120	dWilloughby's estate		1,300.00	1,035.00									1,035.00	
121	dA. Dawson's estate	Leavenworth	1,100.00	769.35			10		769.35				769.35	
122	rAlex. Traskowski	Leavenworth	5,788.72			1					567.50	567.50		Rejected.
123	rAaron Jeffries	Leavenworth	567.50	567.50							273.60	273.60		
124	rMich'l Przbytowicz	Leavenworth	436.15	273.60							408.25	405.25		
125	rJohn P. Richardson	Leavenworth	50,355.00	408.25	150 00									Suspended.
126	rJeremiah Iseley	Leavenworth	1,325.00				1				126.50	126.50		
127	rCharles J. Mize	Leavenworth	135.00	126.50							690.00	690.00		
128	rAlbert G. Boyd	Leavenworth	1,500.00	690.00		1		3			1,250.25	1,259.25		
129	rMatt & S. France	Leavenworth	1,489.00	1,259.25	880.00		2				264.00	264.00		
130	rJohn S. Danks	Leavenworth	300.00	264.00										
131	rJacob F. Stroble	Leavenworth	2,315.00	2,300.00				5			2,300.00	2,300.00		
132	rThomas J. Abshire	Leavenworth	1,630.00	1,367.35	1,100.00						1,367.35	1,367.35		
133	dL. F. Hollingsworth	Leavenworth	402.50	402.50	200.00		1		402.50				402.50	
134	rDavid Smith	Leavenworth	710.00	630.00	200.00						630.00	630.00		
135	rGustavus Stahl	Leavenworth	689.10	555.15			2	3			555.15	555.15		
136	rJames Davis	Leavenworth	230.00	230.00			2				230.00	230.00		
137	rJohn T. Sparks	Leavenworth	230.00	143.75			1				143.75	143.75		
138	rJoseph Elliott	Leavenworth	400.00	335.00			2				345.00	345.00		
139	dM. H. Comstock	Leavenworth	404.50	354.20			2		354.20				354.20	
140	dThomas Suttles	Leavenworth	276.00	276.00					276.00			276.00		
141	rWilliam Freeland	Leavenworth	242.00	242.00							242.00	242.00		
142	rF. and E. Englesmann	Leavenworth	4,338.83	3,537.76							3,537.86	3,537.86		
143	rAugust Kessler	Leavenworth	394.00	381.80			1				381.80	381 80		
144	rStephen Sparks	Leavenworth	200.00	137.00			1				138.00	138.00		
145	rFrederick Reuter	Leavenworth	391.00	156.40							156.40	156.40		
146	rJohn E. Gould	Leavenworth	285.00	212.15							212.75	212.75		
147	rHornsby & Ferrell	Leavenworth	12,249.51	12,2 9.51							12,249.50	12,249.50		Suspended.
148	rCharles W. Ballard	Douglas	500.00									269.59		
149	dJ. Carr Johnson	Leavenworth	260.50	260.50					260.50					
150	rJohn Kendall	Leavenworth	30.00	30.00							30.00	30.00		

*Beginning of page 310 in edition of 1859.

TABULAR STATEMENT "A"—CONTINUED.

No.	NAME.	County.	Claim.	Award.	Crops Destroyed.	Houses.	Horses.	Cattle.	Owned by Pro-Slavery.	Owned by Free State.	Destroyed or taken by Pro-Slavery.	Destroyed or taken by Free State.	Remarks.
151	*r*David W. Powers	Leavenworth	$246.00										Suspended.
152*	*r*John H. Utt	Brown	115.00	$115.00			1			$115.00		$115.00	
153	*r*Cornklius Dorland	Brown	355.00	355.00			2			355.00		355.00	
154	*r*Enoch Spalding	Brown	28.75	28.75						28.70		28.75	
155	*r*Harmon G. Weibling	Leavenworth	500.00	316.25			2				$316.25	316.25	
156	*r*Paul Molke	Leavenworth	580.00	500.00						500.00	500.00		
157	*r*John Heogner	Leavenworth	1,312.50	808.45						808.45	808.45		
158	*d*Alfred S. Addis	Leavenworth	2,270.25	1,866.70					$1,866.70			1,866.70	
159	*r*Mary France	Leavenworth	287.50	287.50						287.50	287.50		
160	*r*Wm. H. P. Bristow	Leavenworth	518.35	518.35						518.35	518.35		
161	*r*Joseph Evans	Leavenworth	335.00	327.75						327.75	327.75		
162	*d*M. Pierce Rively	Leavenworth	345.00	345.00			3		345.00			345.00	
163	*r*Francis Grasmuck	Shawnee	69.00	69.00				1		69.00	69.00		
164	*d*Hiram Penny	Shawnee	316.25	316.26			2		316.25			316.25	
165	*d*John M. Reed	Shawnee	1,247.75	1,247.75				31	1,247.75		623.87	623.87	
166	*r*Bennett A. Murphy	Shawnee	230.00	230.00			2			230.00		230.00	
167	*d*Thomas J. Johnson	Shawnee	172.50	172.50			1		172.50			172.50	
168	*d*William Matney	Shawnee	483.00	483.00			2		483.00			483.00	
169	*r*John D. Jones	Shawnee	500.00	500.00			3			500.00	500.00		
170	*d*Robert A. Edwards	Shawnee	2,810.30	2,810.30			4	2	2,810.30			2,810.30	
171	*d*Wm. B. Edwards	Shawnee	346.50	346.50					346.50			346.50	
172	*d*Isaac Renfro	Shawnee	207.57	207.57			2		207.57			207.57	
173	*d*James R. Warren	Shawnee	307.00	307.00			2		307.00			307.00	
174	*d*John T. Adams	Shawnee	126.50	126.50			1		126.50			126.50	
175	*d*Chas. L. Stevenson	Shawnee	517.50	517.50			2		517.50			517.50	
176	*r*L. G. Cleaveland	Shawnee	400.00	378.35	$204.00		1			378.35		378.35	
177	*r*Joseph H. Weaver	Shawnee	230.00	218.00			1	2		218.00	218.00		
178	*d*Learner B. Stateler	Shawnee	241.50	24.150			2		241.50			241.50	
179	*d*George Matney	Shawnee	431.25	43.125			2		431.25			431.25	
180	*r*Andrew Irnes	Shawnee	230.00	23.000			1			230.00		230.00	
181	*d*Thomas N. Stinson	Shawnee	500.00	500.00				20	500.00		250.00	250 00	
182	*d*Benj. D. Castleman	Shawnee	4,025.00	4,025.00					4,025.00			4,025.00	
183	*r*James Fletcher	Shawnee	1,500 00	1,101.12	750.00					1,101.12	1,101.12		
184	*r*Jacob Willets	Shawnee	257.00	257.00			2			257.00	257.00		
185	*d*Orville H. Brown	Shawnee	1,045 00	1,045 00		2	1		1,045 00			1,045 00	

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186	*d*Mrs. Ann Hopper	Shawnee	385.82	385.82	75.00		1		385.82			385.82	
187	*d*S. J. Livingston	Shawnee	573.20	573.20					573.20		125.00	448.00	
188	*d*Martin Young	Shawnee	328.00	197.73	150.00				197.73			197.73	
189	*d*John L. Hopper	Shawnee	716.00	482.49	300.00				482.40			482.40	
190	*r*Simeon Gilson	Shawnee	225.00	144.50			1			14.50	144.50		
191	*r*Joseph Oakley	Shawnee	6,325.00	1,457.00	1,100.00					1,457.00	1,457.00		
192*	*r*Baxter C. Dennis	Douglas	100.00	86.25						86.25	86.25		Rejected.
193	*r*John Graham	Douglas	760.00										Suspended.
194	*d*Sidney Hurd	Douglas	100.00										Suspended.
195	*r*Jonathan F. Taber	Douglas	5,899.50										Rejected.
196	*d*Joseph Merrit	Douglas	800.00										
197	*r*Martin L. Gaylord	Douglas	1,462.50									1,098.00	
198	*d*Archilles B. Wade	Douglas	1,455.00	1,098.00	200.00		3	4	1,098.00				
199	*r*John Anderson	Douglas	980.00	500.00		1				500.00	500.00		Suspended.
200	*d*Wm. R. Simmons	Douglas	900.00										
201	*r*Anson H. Mallory	Douglas	1,000.00	698.00	270.00		2			598.00	598.00		
202	*d*Augustus Wolfley	Nemaha	929.55	804.40					804.40		834.40		
203	*d*Joab Bernard	Franklin	10,567.43	9,534.91	630.00		3	27	9,524.91			9,524.91	
204	*r*Morrow & Blood	Douglas	287.50	287.50			2			287.50		287.50	
205	*r*Albert D. Searle	Douglas	592.00	410.00						410.00	410.00		
206	*r*William Jesse	Douglas	172.50	172.50			1			172.50		172.50	
207	*d*Francis Meyer	Anderson	1,141.40	650.07					650.07			650.07	
208	*r*George F. Earle	Douglas	325.50										Suspended.
209	*r*Paul R. Brooks	Douglas	360.00	170.00						170.00	170.00		
210	*r*Rachel E. Lewis	Breckenridge	842.50	523.25	320.00	1				523.25	523.25		
211	*r*George W. Pierce	Douglas	400.00	310.00	310.00					310.00	310.00		
212	*r*James H. Carter	Douglas	557.50	484.65	400.00					484.65	484.65		
213	*r*George W. Brown	Douglas	17,432.00	12,569.50			1			12,569.50	12,569.50		
214	*r*George W. Hunt	Douglas	541.50	350.00						350.00	350.00		
215	*r*Joel Grover	Douglas	736.00	659.45	350.00					659.45	659.45		
216	*r*Francis A. Baily	Douglas	172.50	172.50						172.50	172.50		
217	*d*William S. Wells	Douglas	545.00	366.85	144.00	1			366.85				Withdrawn.
218	*r*Charles Bleakley	Doniphan	85.00										
219	*r*Benjamin Johnson	Douglas	1,316.00	1,013.00						1,013.00	1,013.00		
220	*r*G. W. & W. Hutchinson & Co.,	Douglas	26,910.09	24,770.08			1			24,770.00	68,200.00	18,570.08	
221	*r*Samuel Jones	Douglas	205.95	139.15						139.15	139.15		
222	*r*Benj. S. Hancock	Douglas	3,906.47	2,255.25	650.00	1	3	4		2,255.25	2,255.25		
223	*r*Robert G. Elliott	Douglas	1,057.00	603.75						603.75	603.75		
224	*r*Andrew S. Baldwin	Douglas	134.00	134.00						134.00	134.00		
225	*r*John Spicer	Douglas	172.60	172.50			1			172.50		172.50	

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TABULAR STATEMENT "A"—CONTINUED.

No.	NAME.	County.	Claim.	Award.	Crops Destroyed.	Houses.	Horses.	Cattle.	Owned by Pro-Slavery.	Owned by Free State.	Destroyed or taken by Pro-Slavery.	Destroyed or taken by Free State.	Remarks.
226	rJohn Doy	Douglas	$577.30	$577.30						$577.30	$577.30		
227	rEliab G. Macy	Douglas	2,010.00	1,334.00	$800.00					1,334.00	1,334.00		
228	rSamuel Smith	Douglas	1,200.00	1,017.75	885.00					1,017.75	1,017.75		
229	rSamuel Y. Lum	Douglas	488.75	488.75			2			488.75	488.75		
230	rOliver I. Kennedy	Douglas	184.00	184.00			1			148.00	184.00		
231*	rMiller & Elliott	Douglas	10,275.00	4,513.75						4,513.75	4,513.75		
232	rChas. L. Edwards	Douglas	335.00	335.00		1				335.00	335.00		
233	rGeo. W. Deitzler	Douglas	350 75	350 75						350.75	350.75		
234	rAbsolom W. White	Douglas	5,150.00	172.50						172.50	172.50		
235	rThomas R. Heard	Douglas	266.00	161.00	100.00			4		161.00	161.00		
236	rAndrew White	Douglas	600.00	377.20	108.00		1			377.20	377.20		
237	rHenry M. Simpson	Douglas	200.75	200.75			1			200.75	200.75		
238	rSamuel N. Simpson	Douglas	414.00	414 00			1			414.00	414.00		
239	rAbraham Wilder	Douglas	2,535.00	2,133 25			7			2,133.25	2,133.25		
240	rLyman Allen	Douglas	604.00	380.00						380.00	380.00		
241	rEphraim Nute, Jr	Douglas	644.00	644.00			3			644.00	644.00		
242	rLevi Woodward	Douglas	172.00	175.50			1			172.50	172.50		
243	dDaniel J. Kezer	Franklin	448.50	448.50			2	4				$448.50	
244	dJared Chapman	Lykins	1,219.00	1,219.00								1,219.00	
245	dWilliam E. Baker	Linn	287.50	287.50			2					287.50	
246	rCarl A. Krouse	Franklin	76.75	76.75						76.75	76.75		
247	rPerry Fuller	Franklin	415.00	316.25			7			316.25	316.25		
248	rHenry Barricklow	Douglas	663.00	474.95				3		474.95	474.95		
249	rTheodore Winer	Anderson	4,500.00										Rejected.
250	rHenry Alderman	Anderson	246.00	246.00			2			246.00	246.00		
251	rSilas Sutton	Anderson	674.80	495.45	185.00		2			495.45	495.45		
252	rMarion Fraker	Anderson	240.00	115.00			1			115.00	115.00		
253	rJacob Benjamin	Anderson	1,085.00	862.50	150.00	2		5		862.50	862.50		
254	rWilbert West	Anderson	132.25	132.25			1			132.25	132.25		
255	rSamuel F. Tappan	Douglas	360.00	360.00						360.00	360.00		
256	rHugh Kilborn	Lykins	322.00	322.00		1				322.00	322.00		
257	rJohn Blunt	Anderson	184.00	184.00			1			184.00	184.00		
258	rJames Sutton	Anderson	230.00	230.00			2			230.00	230.00		
259	rFreeman Austin	Anderson	150.00	149.50						149.50	149.50		
260	rJesse Sutton	Anderson	469.50	314.50	185.00					314.50	314.50		

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261	rMercy Sutton	Anderson	115.00	115.00			1			115.00	115.00		
262	rAugust Bondi	Anderson	1,191.00	1,000.00	185.00	1				1,000.00	1,000.00		
263	rIsco Sutton	Anderson	795.00	544.40	185.00	1				544.40	544.40		Nonresident.
264	rJohn Brown, Jr	Anderson	510.00			1							
265	rMary Partridge	Lykins	57.50	57.50						57.50	57.50		
266	rJames J. Holbrook	Lykins	1,190.00	1,166.40			4			1,167.70	1,167.40		
267	rJohn F. Grant	Lykins	296.70	296.70			2			296.70	297.70		
268	rG. Partridge's estate	Lykins	172.50	172.50		1				172.50	172.50		
269	rJohn Sharkey	Lykins	4,772.50	4,772.50		1				4,772.50	4,772.50		
270	rJoseph Janus	Lykins	115.00	115.00				2		115.00	115.00		
271*	rMason T. Summers	Lykins	1,500.00			1							Nonresident.
272	rWakeman Partridge	Lykins	402.50	402.50			1			402.50	402.50		
273	rThomas Roberts	Lykins	161.00	161.00				3		161.00	161.00		
274	rOrville C. Brown	Lykins	6,111.00	6,111.00		3				6,111.00	6,111.00		
275	rGeorge Roberts	Lykins	81.65	81.65						81.65	81.65		
276	dPhil H. Thomas	Lykins	459.00	339.25	213.00				$339.25			339.25	
277	rThomas Rice	Lynn	431.25	431.25			3			431.25	431.25		
278	rRobert Reynolds	Lykins	556.00	534.40			1	2		534.40	534.40		
279	rSam E. Thompson	Lykins	322.00	322.00			2			322.00	322.00		
280	dChas. H. Withington	Lykins	1,664.00	1,664.00			3		1,664.00			1,664.00	
281	dThomas L. McKinney	Lykins	143.75	143.75			1		143.75			143.75	
282	rIsaac C. Willson	Lykins	74.75	74.75			1			74.75		74.75	
283	rHenry M. Martin	Shawnee	485.00	398.50						398.50		398.50	
284	dJ. R. Waysman	Shawnee	663.90	270.25				7	270.25			279.25	
285	dUria G. Johnson	Shawnee	333.50	333.50			3		333.50			333.50	
286	B. Woodbury's estate	Shawnee	392.15	392.15			1			392 15	392.15		
287	rMorgan Cronkhite	Lykins	184.00	184.00			1			184.00	184.00		
288	rHarold Howard	Lykins	172.50	172.50			1			172.50	172.50		
289	rWilliam B. Keith	Lykins	456.55	456.55			2			456.55	456.55		
290	rR. W. Wood	Lykins	224.25	224.25						224.25	224.25		
291	rCharles Sturdivan	Lykins	525.00	356.50			2			356.50	336.50		
292	rHenry Parson	Lykins	143.75	143.75				2		143.75	143.75		
293	rH. H. Updegraff	Lykins	721 78	713.00		1				713.00	713.00		
294	rWm. Saling	Lykins	100.62	100 62			1			100.62	100.62		
295	rJames Fuller	Lykins	143.75	143.75				2		143.75	143.75		
296	rThomas Kelly	Lykins	683.00	620 00		1	1			720.00	620.00		
297	rJohn Stotts	Lykins	98.75	97.75			1			97.75	97.75		
298	rCharles A. Foster	Lykins	198.00	198.00						189.00	198.00		
299	rAmos D. Alderman	Lykins	270.00	270.00		1				270.00	270.00		
300	dH. Sherman's estate	Lykins	5,000.00	1,035.00					1,035.00			1,035.00	Suspended.

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TABULAR STATEMENT "A"—CONTINUED.

No.	NAME.	County.	Claim.	Award.	Crops Destroyed.	Houses.	Horses.	Cattle.	Owned by Pro-Slavery.	Owned by Free State.	Destroyed or taken by Pro-Slavery.	Destroyed or taken by Free State.	Remarks
301	rWilliam Patrick	Lykins	$250.00										
302	rNat. McVey's estate	Lykins	600.00	$575.00		1				$575.00	$575.00		
303	rJohn Yelton	Lykins	945.00	901.60		1	2			901.60	901.60		
304	rCharles H. Crane	Lykins	512.35	428.15	$100.00		2			428.15	428.15		
305	rOrran Williams	Lykins	115.00	115.00	100.00					115.00	115.00		
306	rBenjamin Goodrich	Lykins	241.50	241.50	100.00		1			241.50	241.50		
307	rD. Garrison's estate	Lykins	379.50	379.50				6		379.50	379.50		
308	rFred Brown's estate	Lykins	333.50	333.50			1	3		333.50	333.50		
309	rSamuel L. Adair	Lykins	28.75	28.75				1		28.75	28.75		
310	rAsa S. White's estate	Lykins	1,740.00	1,713.50		1				1,713.50	1,713.50		
311*	rJ. Merriot Anthony	Lykins	178.75	119.35	25.00					119.35	119.35		
312	rA. B. Jackson	Lykins	115.00	115.00	115.00					115.00	115.00		
313	rAndrew H. Fadden	Lykins	794.00	230.00					$230.00			$230.00	
314	rThomas Totten	Lykins	250.50	250.00	100.00		2	1		250.00	250.00		
315	rDavid G. Watt	Lykins	42.50	42.50						44.50	42.50		
316	rJohn Lay	Lykins	172.50	172.50						172.50		172.50	
317	rDavid B. Wilson	Lykins	203.30	203.30	91.00					203.30	203.30		
318	rPatrick Devlin	Lykins	46.10	46.10						46.10	46.10		
319	rSamuel Geer	Lykins	8,280.00	8,280.00		5				8,280.00	8,280.00		
320	rJames Stotts	Lykins	418.60	418.60			2			418.60	418 60		
321	rDavid Goodrich	Lykins	350.00	195.50						195.50	195.50		
322	dJohn Van Hone	Lykins	745.00	92 00	80.00				92.00			92.00	
323	rCyrus Tator	Lykins	438.55	435.55		1				438.55	438.55		
324	rAndrew Updegraff	Lykins	63.25	63.25						63.25	62.25		
325	rJames M. Arthur	Linn	1,981.45	1,981.45	1,100.00			3		1,981.45	1,981.45		
326	rT. J. Addis, Sr	Linn	1,669.55	1,935.98		2	1	1		1,535.98	1,535.98		
327	rT. J. Addis, Jr	Linn	189.00	180.90	60.00	2	2	12		180.90	180.90		
328	rE. Barnes' estate	Linn	172.50	172.50	50.00	2				172.50	172.50		
329	rCharles Barnes	Linn	135.70	135.70						135.70	135.70		
330	rRobert Cottle	Linn	680.00	552.00	210.00	1				552.00	552.00		
331	rTilghman Clarke	Linn	172.50	172.50			1			172.50	172.50		
332	rM. P. McDonald	Linn	225.00										Rejected.
333	rCalvin McDonald	Linn	115 00	115.00			1			115.00	115.00		
334	rIsaac T. Dement	Linn	2,285.00	2,285.00		2				2,285.00	2,285.00		
335	rThomas L. Day	Linn	690 00	621.00	180 00			24		621 00	621.00		

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336	rNicholas Gonyn	Linn	258.75	258.75			2			258.75	258.75		
337	rFur. H. Graham	Linn	92.00	92.00	92.00					92.00	92.00		
338	rBenj. Henshaw	Linn	97.75	97.75			1			97.75	97.75		
339	rWm. Hutchin	Linn	1,344.00	1,144.00	50.00	1	4			1,144.25	1,144.25		
340	rWm. Hobson	Linn	1,525.00	661.25	450.00		4			661.25	661.25		
341	rThomas James	Linn	139.25	102.60	50.00		1			102.60	102.60		
342	rWm. King's estate	Linn	126.50	126.50			1			126.50	126.50		
343	rMary Lovell	Linn	490.00	460.00			2	2		460.00	460.00		
344	rSolomon Mason	Linn	608.00	529.20	360.00					529.20	529.20		Rejected.
345	rPeter Majors	Linn	150.00										
346	rWm. Rogers	Linn	329.00	213.00			4			213.00	213.00		
347	rSamuel Nickel	Linn	920.00	920.00	560.00	1				920.00	920.00		
348	dReuben E. Noel	Linn	235.75	265.75	175.00			1	235.75			235.75	
349	rJohn W. Ruark	Linn	716 35	277.25				2		277.25	277.25		Withdrawn.
350	rJohn R. Robinson	Linn	807.00										
351*	rAugustus Wattles	Linn	875.00	661.25			3	3		661.25	661.25		Rejected.
352	rRuther'd Tennison	Linn	300.00										
353	rRobert Smith	Linn	287.50	287.50			2			287.50			
354	rJ. S. Swagarty	Linn	179.00	148.35			1			148.35			
355	rDavid Reese	Linn	352.00	345.00	100.00		1	1		345.00			
356	rOliver Westover	Linn	94.00	94.00	94.00					94.00	Destroyed by Pro-slavery.		
357	rLevi Ward	Linn	193.00	49.45				1		49.45			
358	rJohn R. Williams	Linn	484.00	484.00	245.00			1		484.00			
359	rJohn H. Byrd	Atchison	23.00	23.00						23.00			
360	rDavid C. Piquett	Leavenworth	3,000.00	1,035.00			1			1,035.00			
361	rCharles Blakely	Doniphan	97.75	97.75			1			97.75		97.75	
362	rJames Cormack	Leavenworth	98.17	98.17						98.17			
363	rL. B. Lawrence	Leavenworth	675.00	488.75			3			488.75			
364	rLorenzo Northrop	Jefferson	1,288.00	1,288.00			1			1,288.00	Destroyed by Pro-slavery.		
365	rR. H. Crosby	Jefferson	3,805.85	3,805.85			1	1		3,805.85			
366	rPhilip Rothchild	Leavenworth	1,274.25	1,274.25						1,274.25			
367	rPhebe J. Wilson	Douglas	155.25	155.25						155.25			Nonresident.
368	dG. L. Skielbeck	Douglas	30,000.00										
369	rD. C. Buffum's estate	Douglas	594.00	558.90			2			558.90	558.90		Suspended.
370	rCharles H. Thomes	Douglas	707.75										
371	rLewis Jenks	Douglas	609.40	609.40	225.00		2			609.40			
372	rCharles W. Smith	Douglas	212.75	212.75	75.00					212.75			
373	rWilliam Jones	Douglas	97.75	97.75			1			97.75	Destroyed by Pro-slavery.		
374	rSamuel Fry	Douglas	1,425.00	575.00						575.00			
375	rWilliam Philip's estate	Leavenworth	755.00	710.50		1	1			701.50			

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TABULAR STATEMENT "A"—CONTINUED.

No.	NAME.	County.	Claim.	Award.	Crops Destroyed.	Houses.	Horses.	Cattle.	Owned by Pro-Slavery.	Owned by Free State.	Destroyed or taken by Pro-Slavery.	Destroyed or taken by Free State.	Remarks.
376	*r*W. W. Moore	Doniphan	$2,700.00	$860.00			3			$860.00	Destroyed by Pro-slavery.		
377	*r*Milton E. Clark	Leavenworth	3,158.00	2,021.70						2,021.70			
378	*r*H. Miles Moore	Leavenworth	735.00	730.25						730.25			
379	*d*Wm. A. McDowell	Douglas	4,393.00										Suspended.
380	*r*Reuben H. Burr	Douglas	460.00	460.00			2			460.00	$460.00		
381	*r*William Haller	Leavenworth	5?9.25	460.00						460.00	460.00		
382	*r*August M. Sattig	Leavenworth	264.50	264.50						264.50	254..0		
383	*d*Eli M. Mackeruer	Leavenworth	170.00										Rejected.
384	*r*Frank G. Adams	Atchison	86.85	86.25						86.25	86.25		
385	*d*Thomas B. Arnett	Bourbon	802.50										Rejected.
386	*r*Etna Ecart	Bourbon	274.00	274.00						274.00	274.00		
387	*d*Hiero T. Wilson	Bourbon	1,133.50	600.80					$600.80		575.80	$25.00	
388	*d*Chas. P. Bullock	Bourbon	410.00	74.75					74.75		74.75		
389	*r*James Curry	Bourbon	194.50	120.7			1			120.75	120.75		
390	*r*Josiah Stewart	Bourbon	442.75	442.75	$210.00		2			442.75	442.75		
391*	*d*Benjamin Brantley	Bourbon	210.00	57.50			1		57.50			57.50	
392	*r*Allen Beeson	Bourbon	1,425.00	1,095.95	800.00		9			1,095.95	1,095.95		
393	*r*W lli m Stone	Bourbon	1,477.00	1,457.00	1,140.00					1,457.00	1,457.00		
394	*r*I aac Cody, Adm.	Leavenworth	368.00	368.00			2			368.00	194.00	194.00	
395	*r*Henry L. Pennock	Leavenworth	444.00	414.00	414.00					414.00	414.00		
396	*r*James Comstock	Douglas	126.50	126.50			1			126.50	126.50		
397	*r*Isaac B. Pennock	Franklin	58.65	58.65						58.65	58.65		
398	*r*James Cummings	Douglas	245.00	230.00						230.00	230.00		
399	*r*Thomas B. Heard	Douglas	500.00										Rejected.
400	*r*G. W. Barnes	Nemaha	316.25	316.25			2			316.25	316.25		
401	*r*Mahlon P. Newell	Nemaha	115.00	115.00			1			115.00	115.00		
402	*r*Byers & Jewett	Leavenworth	79.70	79.70						79.70	79.70		
403	*d*Martin Hefferlin	Leavenworth	143.75	143.75			1		143.75			143.75	
404	*d*W. F. & G. M. Dyer	Jefferson	6,000.00	6,000.00					6,000.00			6,000.00	
405	*d*Geo. N. Hinchman	Leavenworth	520.00	402.50			3		402.50			402.50	
406	*r*Joel C. Green	Leavenworth	54.00	54.00						54.00	54.00		
407	*r*David Bailey	Douglas	36.43										Rejected.
408	*r*Hiram House	Atchison	2,475.00	627.90	270.00		3			627.90	627.90		
409	*r*H. S. McClelland	Douglas	150.00										Suspended.
410	*d*Thomas Fahay	Leavenworth	200.00										Rejected.

*Beginning of page 317 in edition of 1859.

411	dJames Cravens	Atchison	125.00									Rejected.
412	dD. M. Bevans	Atchison	3,933.67									Suspended.
413	rHarrison Wider	Atchison	57.50	57.50	57.50					57.50	57.50	
414	dJohn Braley	Buchanan, Mo	165.00									Rejected.
415	rB. F. Ross	Atchison	161.00	161.00			1			161.00	161.00	
416	rW. J. Eagles	Atchison	657.80	657.80			1	2		657.80	657.80	
417	dHiram Quiett	Atchison	402.50	402 50			3		402.50		402 50	
418	rJohn Wright	Leavenworth	375.00	327.75			2			327.75	327.75	
419	rWm. C. Stagg	Jefferson	125.00									Rejected.
420	rCharles F. Brown	Jefferson	57.50	57.50	57.50					57.50	57.50	
421	rJ. C. W. Davis	Jefferson	184.00	184.00			1			184.00	184.00	
422	rDaniel Low	Jefferson	304 95	304.95			2			304.95	304.95	
423	rAdolphus House	Atchison	201 25	202.25			1			201.25	201.25	
424	rThos. T. Furguson	Atchison	1,325.00	1,241.00	443.50	1	3			1,241.00	1,241.00	
425	rJohn W. Farnsworth	Shawnee	841.55	841.55				4		841.55	841.55	
426	rAllen & Gordon	Shawnee	92.00	92.00						92.00	92.00	
427	rWilliam J. Card	Douglas	450.00	289.80	252.00					289.80	289.80	
428	dWilliam M. Nace	Douglas	621.50	621.50	621.50				621.50		621.50	
429	dJames C. Evans	Douglas	2,294.00	2,133 00				53	2,133.00			2,133.00
430	rJames Parsons	Shawnee	115.00	115.00			1			115.00	115.00	
431*	dR. D. McCamish	Johnson	10,150.50	8,087.00	4,000.00	3	3	1	8,057.00			Destroyed by Free State.
432	dH. S. Randall	Franklin	1,302 50	1,302.50			15		1,302.50			
433	dToussaint La Hay	Douglas	1,564 00	1,564.00		2	2		1,564.00			
434	dJames Campbell	Douglas	1,346.00	1,321.25	550.00				1,321.25			
435	dBenj. F. Hopper	Douglas	625.00	625.00	300.00			3	625.00			
436	dJ. N. O. P. Wood	Douglas	5,048.30							74.65	74.65	Suspended.
437	rAllen & Conwell	Shawnee	74.65	74.65								862.00
438	dDetviot Burton	Douglas	862.00	862.00	360.00	1			862.00			Rejected.
439	dSamuel R. Ruckel	Douglas	1,000.00							681.00	680.00	
440	rAdam Bauer	Shawnee	681.00	681.00	100.00	1						
441	dSylvester H. Davis	Douglas	1,772.00	1,319.00	930.00					1,319.00	600.00	719.00
442	rGuilford Dudley	Shawnee	165.60	165.60			1			165.60	165.60	
443	rJames Fegart	Shawnee	431.25	431.25	431.00					431.25	200.00	231.25
444	dFry P. McGee	Shawnee	2,091 00	1,224.75			9		1,224.75			1,224.75
445	rHorace L. Jones	Leavenworth	1,122.00	851.00			2			851.00	851.00	
446	dP. Skinner, Adm	Calhoun	8,210.00	6,210.00			12	100	6,210.00			6,210.00
447	dMichael Hummer	Wyandott	415.00	333.50	100.00		2		333.50			333.50
448	rJames Hurd	Douglas	382.60	382.60	180.00			3		382.60	382.60	
449	rMary S. Pond	Waubonsee	40.25	40.25						40.25	40.24	
450	rJoshua A. Davis	Leavenworth	200.00									Rejected.

*Beginning of page 318 in edition of 1859.

TABULAR STATEMENT "A"—CONCLUDED.

No.	NAME.	County.	Claim.	Award.	Crops Destroyed.	Houses.	Horses.	Cattle.	Owned by Pro-Slavery.	Owned by Free State.	Destroyed or taken by Pro-Slavery.	Destroyed or taken by Free State.	Remarks.
451	*r*Lucy B. Armstrong	Wyandott	$34.50	$34.50	.....	....	....	....	.....	$34.50	$34.50	.....	
452	*r*Wyandott M. E. Church	Wyandott	1,680 00	1,680.00	.....	1	....	....	.....	1,680.00	1,680.00	.....	
45	*r*Asher T. Wykoff	Wyandott	1,050.00	150.00	.....	....	1	....	.....	150.00	150.00	$150.00	
4.4	*d*Robt. S. Merchant	Leavenworth	175.95	175.95	.....	....	1	....	$175.95	.....	175.95	.....	
455	*d*Lewis Burns	Leavenworth	300.00	150.00	.....	....	1	....	150.00	.....	.....	150.00	
456	*r*Alex. A. Davis	Jefferson	287.50	287.50	.....	....	2	....	.....	287.50			
457	*r*Benj. Underwood	Jefferson	172.50	172.50	.....	....	1	....	.....	172.50			
458	*r*Wm. H. Coffin	Jefferson	149.50	149.50	.....	....	1	....	.....	149.50	Destroyed		
459	*r*Jasper R. Perkins	Leavenworth	57.50	57.50	.....	....	....	1	.....	57.50	by		
460	*r*Ulyses T. Shipp	Wyandott	400.00	200.00	$200.00	....	....	....	.....	200.00	Pro-Slavery		
461	*r*John Spaulding	Douglas	120.00	120.00	.....	....	....	2	.....	120.00			
462	*r*Charles C. Emery	Douglas	300.00	100.00	.....	....	....	2	.....	100.00			
463	*r*Wyandott M. E. Church S	Wyandott	600.00	3,500.00	.....	....	1	....	3,500.00	.....	1,750.00	1,750.00	
	Totals		676,020 21	*412,978 03	$37,349 61	78	368	533	$77,199.00	$335,77[illegible].00	$ 18,718.00	$94,259.00	

The Commissioners have been obliged to use terms designating the supposed or alleged positions of individuals in 1856. The terms are merely so used now that the subject matter of the Report may be more readily comprehended. A few individuals may be wrongly designated, owing to the few facts in such cases appearing upon the record from which presumptions are drawn.

* *r*=Free State. † *d*=Pro-Slavery.

EDWARD HOOGLAND,
HENRY J. ADAMS,
SAMUEL A. KINGMAN.

[*319] *Mr. STINSON. I move that the report be referred to the committee on ordinance and public debt.

The motion was agreed to.

THE COLORED GENTLEMAN.

Mr. GRAHAM. Mr. President, I rise to a question of privilege.

The PRESIDENT. The gentleman from Atchison (Mr. Graham) rises to a question of privilege.

Mr. GRAHAM. For the purpose of making an inquiry, to know which party has the "nigger." I have not heard from the colored gentleman for twenty-four hours.

Mr. WRIGLEY. I understand him to be in possession of the gentleman from Atchison (Mr. Graham).

Mr. STINSON. I understand that the gentleman, in looking for the capital question, has discovered "a negro in the wood pile."

The PRESIDENT. The Chair will announce the following committee of investigation: Messrs. Porter, Moore, Simpson, Hanway and Signor.

Mr. INGALLS. Mr. President, if it is in order, I would like to submit a report from the committee on phraseology and arrangement.

The PRESIDENT. The Chair would state that it is in order. Unless there are further resolutions to be offered, reports from standing committees will be in order.

Mr. INGALLS. Mr. President, I wish to submit the following report, in behalf of the committee on phraseology and arrangement:

The committee on phraseology and arrangement having had under consideration the articles on "education" and "public institutions," respectfully submit the following

REPORT.

In section 1 strike out as far as the word "shall" in fifth line, and insert the words, "The State Superintendent of public instruction." In line eighth strike out first word "shall." In lines eight and nine strike out "shall be provided," and substitute "may be prescribed." In line nine strike out "county" and read "a." In line ten strike "also."

In section 2 line five, strike out "other."

In section 3 line two, strike out "hereafter." In line ten strike out and substitute so as to read as follows: "Estates of persons dying without will or heir." In line eleven strike out "also."

In section 4 lines two and three, strike out all between "funds" and "shall"; change "of" to "to." After provided, read as follows: "that no school district in which a common school has not been maintained at least three months in each year shall be entitled to receive any portion of such fund."

In section 5 lines three and four, strike out "an election authorized by law," and insert "a general election." In line five, for "an" read "for." In last line strike out "per centum" and read "rate."

Section 6 line one, for "the" read "all." Line three, strike out "and." In line four, for "owners" read "ownership." In line eight, strike out words "collected in the several counties." Strike out all after word "schools" in line sixteen.

Section 7. For "provisions" read "provision." Transpose and read as follows after "establishment," "at some eligible and central point," &c. After literature insert "and." In line six, for "the" read "all." In line

seven, for "that may arise," read "arising"; for "rents or sale," read "sale or rents." In line eight, strike out "the" and the words "that may be." In line ten, for "any" read "all." In line eleven, strike out "which may be made." In line thirteen, strike out "be and."

In section 8. In line two strike out so as to read "ever control any." In line three strike out "funds."

In section 9 line five read "of the university lands and the investment of all funds arising from the sale or lease thereof." In line six strike out [*320] "any." In line eight strike *out "all," and all after the word "business."

PUBLIC INSTITUTIONS.

Section 1 line four, strike out "always." Line five, strike out "and be."

Append last clause of section two to read as follows: "Trustees and superintendents of all benevolent institutions shall be nominated by the Governor and confirmed by the Senate, and upon all such nominations the question shall be taken by yeas and nays, which shall be entered upon the journal."

Section 2. Read "A penitentiary shall be established, the directors of which shall be appointed or elected as prescribed by law."

Section 3 line first, strike out all between "shall" and "that" in line two, and read "shall fill any vacancy."

In section 4 line two, strike out "in some suitable manner," and insert "as may be prescribed by law." In line six, strike out all after "society."

The report lies on the table, under the standing rule.

A NOTARY PUBLIC.

Mr. MCDOWELL. Mr. President, I don't know whether to submit my proposition in the shape of a resolution or a motion. I will offer it informally as a motion, that the committee on investigation be authorized to employ a notary public, to take testimony under oath.

The yeas and nays were demanded, and being ordered and taken, resulted—yeas 48, nays 0—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Brown, Barton, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Foster, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Hutchinson, Hanway, Hoffman, Houston, Kingman, Lillie, Lamb, Middleton, Moore, McDowell, McCune, McCullough, Preston, Palmer, Parks, Porter, Ritchie, Ross, Signor, Slough, Stinson, Stiarwalt, Stokes, Simpson, Townsend, J. Wright, Wrigley, T. S. Wright, Williams—48.

NAYS—0.

So the motion was agreed to.

Mr. SLOUGH. Mr. President, in order to give this committee time to accomplish this object, and the committee on phraseology and arrangement time to do business between this and the afternoon session, I move the Convention adjourn.

The motion was agreed to.

The Convention accordingly took a recess till 3 o'clock.

AFTERNOON SESSION.

The President called the Convention to order at 3 o'clock.

Mr. STINSON. Mr. President, I move that the Convention take a recess for one hour to permit the committee on Investigation to proceed with their labors and make a report.

The motion was agreed to.

The Convention accordingly took a recess till 4 o'clock.

The President called the Convention to order again at 4 o'clock.

Mr. STINSON. Mr. President, I move that the Convention take a further recess of an hour to allow the committee on Investigation to finish their labors.

Mr. BLUNT. Will the gentleman withdraw his motion for a moment.

Mr. STINSON. Yes, sir.

Mr. BLUNT. Mr. President, I offer the following resolution.

"*Resolved*, That the committee appointed to investigate charges of corruption on the part of members of this body, in reference to the location of the capitol, be instructed to inquire into all other matters of fraud and corruption that are in any way connected with the action of this Convention, and have full power to send for persons and papers for the same."

The resolution was agreed to.

Mr. THACHER. Mr. President, I hope this Convention will not adjourn any further on account of this matter. Let the committee pursue their work at some other time. I think the time of the Convention can be much better occupied than waiting on that committee. It is lifting the matter into a notoriety it does not deserve. Let us go to work.

[*321] *Mr. STINSON. I move that the Convention do now adjourn.

The motion was rejected.

ORDINANCE.

Mr. INGALLS. Mr. President, I beg leave to submit a report from the Committee on Phraseology and Arrangement.

Mr. THACHER. I would enquire whether we have any further reports from that committee before us?

Mr. INGALLS. I think there is one not acted upon.

Mr. THACHER. I move to take up their report on ordinance.

The motion was agreed to by consent.

Mr. PARKS. Mr. President, as chairman of the Committee on Investigation I ask leave for that committee to sit during the session of the Convention.

The leave was granted by consent.

Mr. THACHER. I move the report be taken up section by section.

The PRESIDENT. Unless objection be made the report will be so taken up and considered.

The committee amendments to the several articles were severally read and adopted.

The article on ordinance, as amended by the committee, was then adopted as a whole, and referred to the Committee on Phraseology and Arrangement for arrangement and enrollment—under the rule.

EDUCATION.

Mr. KINGMAN. Mr. President, I move that we take up the report of the committee on Phraseology and Arrangement on the education article.

The motion was agreed to by consent.

The committee amendments were read section by section.

Mr. PALMER. Mr. President, I move to reconsider the vote by which section 5 was adopted. My object is to give power to provide for the selling of these lands.

Upon a division of the House the Secretary reported—affirmative 7, negative 11.

The PRESIDENT. A quorum has not voted. Will gentlemen please to vote?

The motion was rejected—affirmative 9, negative 16.

Mr. WRIGLEY. I propose an additional section, to be numbered section 10, as follows:

"SECTION 10. Nothing in this article contained shall be so construed as to mean that the people are to be taxed to support negro schools, or that negro or mulatto children are to be enumerated in the distribution of school funds—and it is expressly provided that "neither negro nor mulatto children shall be educated in the schools provided for in this article."

Mr. PRESIDENT WINCHELL. (Mr. Thacher, the President *pro tem.*, in the Chair.) I believe the subject embraced in that section has been before acted upon by this Convention and hence is not in order.

Mr. WRIGLEY. It has never been raised in this shape.

Mr. PRESIDENT WINCHELL. Two substitutes have been acted upon precisely similar, and according to all rules of order—

The PRESIDENT *pro tempore*. The Chair will state that one nearly identical was stricken out and therefore this matter cannot be reached without a motion to reconsider.

Mr. PRESIDENT WINCHELL. I would inquire whether the Chair sustains my order?

The PRESIDENT *pro tempore*. It does.

Mr. PRESIDENT WINCHELL. I move then that the article be adopted as a whole.

The article on education as amended by the Committee on Phraseology and Arrangement was then adopted as a whole; and, under the rule, recommitted for arrangement and enrollment.

Mr. INGALLS. I move that the Convention do now adjourn.

The motion was agreed to.

The Convention accordingly adjourned till to-morrow morning at 8 o'clock.

[*322] *SATURDAY, July 23, 1859.

The Convention met at 8 o'clock, A. M.

Prayer by the Chaplain.

The absentees on roll-call were Messrs. Graham, Hoffman, Houston, Ingalls, Kingman, May, Preston, Perry, Simpson, Townsend and T. S. Wright.

The journal of yesterday was read and authenticated.

APPORTIONMENT.

Mr. BLUNT. Mr. President, I wish to inquire if the committee on Apportionment are ready to report?

Mr. PRESTON. They are not ready. They have had several meetings, and are not yet able to agree. They agree to disagree. I will state further, that if the Convention would reconsider the resolution passed at an early day of the session, instructing the committee to make single districts of all the counties, they would very much facilitate our business. It is probable that we could then agree, by inviting counties and giving floating members. I would ask, in behalf of the committee, that that resolution be reconsidered and rescinded.

The PRESIDENT, *pro tempore*. The impression of the Chair is, that the single district rule was stricken out of the bill.

Mr. SLOUGH. In order to give the committee on Arrangement, and the committee on Apportionment, an opportunity to prepare matter for the Convention, I move that the Convention take a recess till 10 o'clock.

The motion was agreed to, and the recess ordered accordingly.

The President resumed the Chair at ten o'clock.

COMMITTEE REPORTS—SKULLDUGGERY.

Mr. HIPPLE submitted the following:

"*Resolved*, That all the committees of this Convention, excepting the committee of Phraseology and Arrangement, and the committee on Accounts, shall submit their accounts this afternoon at three o'clock, and that the rule which requires all Reports to be printed be rescinded."

Mr. BLUNT. I move to except the committee on Skullduggery appointed yesterday.

Mr. BURRIS. I move to except the committee on the Schedule.

Mr. SLOUGH. Mr. President, we have heretofore from time to time passed resolutions of a similar character, requiring the committees to report at a certain time, and some of them have come forward and asked for further time. We are now nearly ready to adjourn, and there is no good reason why the committee on Schedule should delay their report. It seems to me that we ought to require the observance of the rules we adopt. We might adjourn by the middle of next week, if these reports come in as they ought.

Mr. BURRIS' amendment was agreed to, and the question recurred on the adoption of Mr. Blunt's amendment.

Mr. PARKS. Mr. President, on the part of the investigating committee, I would state, that last evening we had come to a resolution to submit the evidence we have taken, without recommendation, to the Convention. But one of the committee at that time spoke of other evidence that ought to go into the report, and that decided us against reporting till Monday. The evidence is complete as far as it goes; but the committee ask for further time, upon this information of a member.

Mr. STINSON. I move that the committee be instructed to report the evidence in their possession at once.

Mr. THACHER. I am opposed to that, because I understand that there is very material evidence to come in. And so long as we have raised the

committee, I think we ought to give them ample time. So long as the Convention has appointed a committee to investigate alleged corruption, their work should be thorough.

Mr. STINSON. If they are allowed to send messengers all over the Terri- [*323] tory to hunt up *evdience, they will not be ready to report during the session.

Mr. SLOUGH. I have enquired of the chairman of the committee as to who are the witnesses and what is the matter to which they are to testify, and he tells me that he is not informed. Now it seems to me if there is no better reason for delaying the report, the committee ought to be discharged. If there is any specific witness not in town, whose testimony is important, it might be reasonably postponed. But that it not alleged. But I am informed that a partial report might be made now; and then, if necessary, the committee could have farther time for the remainder.

Mr. BURRIS. Mr. President, it seems to me that this Convention ought not to want a partial report. The committee have entered on the dischar e of their duties, and I, for one, am in favor of probing this thing to the bottom. I desire that they should make a full and complete investigation, and report. But, says the gentleman, we are desirous to adjourn. There is no gentleman on this floor more anxious to do that than myself; and I would not be in favor of allowing the labors of the committee to interfere with the action of the Convention. But then, there is no expectation that we can adjourn earlier than the middle of next week. Then let the committee report on Monday. We want all the facts—full and complete—that we may have a just action.

Mr. HIPPLE. I would inquire whether any messenger has been sent after witnesses?

Mr. GREER. Mr. President, I understood the gentleman from Leavenworth (Mr. Parks) to say to the House, that on yesterday they had completed their testimony and were ready to report. But that a suggestion was made to the committee by a member, that other matters might be gone into, and thereupon they postponed their report. But I understand that the testimony is now complete, as far as any question has been before them; and that being so, I cannot see how gentlemen can refuse to allow the report to come in, as desired by the other gentleman from Leavenworth.

Mr. PARKS. Mr. President, I did not say, that all the matters we have had before us were complete. I stated that the report of the evidence itself was perfect. But I understand from one of the committee that these matters will all come up again—that there are other witnesses, and that the whole case will all have to be gone over again.

Mr. GREER. Mr. President, I am not for stifling the matter, but that everything should be brought before the Convention. I am perfectly willing that gentlemen should have ample time, and that all the time of the session should be devoted, if necessary, to bring the whole matter before the Convention and the country. But it seems to me, that gentlemen cannot be sincere when they protest, against the report at present, and allege against us, the spirit of a desire to suppress investigation, because the case furnishes no ground for a proposition of this kind. I do not see why the committee may not report what has been already brought to light. There is here, it seems to me, a disposition to stave off a certain question, and every gentleman must see that the longer that is put off, the longer will be the session. There are several questions—among which was that of

the temporary location of the Capital—that were postponed on yesterday, till the report of this committee should be made—at least, so far as the gentleman from Douglas (Mr. Hutchinson) was concerned. Now, if the committee are ready to report in reference to the skullduggery of the gentleman from Douglas, let them report that, and have leave to sit again. That may be done legitimately; and, therefore, strictly speaking, there is no reason for delaying the report.

Mr. KINGMAN. Mr. President, I cannot myself act intelligently on this question, involving the reputation and rights of members and other parties, till I have all the evidence. Nor have I made inquiry to ascertain how far [*324] the evidence has gone. So long as it is suggested *that there is other evidence that may affect my judgment, I do not care to hear a partial report. I do not understand the chairman of the committee as saying, that the proposed evidence would not affect any particular question, but that it would affect the whole matter. We have assumed to investigate a grave charge; and now shall we have a report, when it is said there is other evidence not yet taken, which may affect the whole investigation? The only object should be to induce a just decision.

Mr. STINSON. Mr. President, we do not know what the report will be till we hear it. As I understand the case, it is charged, that a certain member from Douglas county had attempted to corrupt another member of this body. Now, let the report come in, and let either of these gentlemen show to the Convention that he requires further time, and no man will be more willing to grant it than I. I do not want to see the Convention adjourn without a report and decision upon this matter.

Mr. BLUNT. Mr. President, I protest against any action that will prejudice parties. I thought I could see sharp practice contemplated at the time the resolution to raise this committee was introduced. And being convinced that it contemplated prejudice against a certain locality for the temporary seat of government, I proposed to amend the resolution so as to require the committee to extend their field of operations, that they might investigate all matters of fraud and corruption having relation to the action of this body. And now I perceive that those gentlemen who were at first in favor of raising this committee on Skullduggery, when they see it is likely to implicate other parties, and bring out other evidence of fraud and corruption, not exactly connected with the question of the distribution of "corner lots," they propose to stave off action. Sir, I protest against that. If we have gone in for it, let us have a full and fair investigation of all the facts. I think I can see a little sharp practice this morning. I think, that, upon the heels of receiving this report, which, in its character, must be *ex parte*, there will be an attempt to rescind the resolution we passed yesterday to postpone the fixing of the seat of government; and while that *ex parte* report is before the minds of members, they will propose to go into the selection of the temporary seat of government, and so avail themselves of all the erroneous and prejudicial impressions which this partial report may produce. I protest against such action, sir. I think it comes with an ill grace from those who were so fearful of being contaminated by evil associations as to raise this committee, now, when it is proposed to investigate all the evidences of fraud and corruption, to strive to stave off investigation!

Mr. MCDOWELL. Mr. President, the gentleman's remarks seem to be entirely gratuitous. The motion under consideration does not contemplate anything in the nature of that which the gentleman charges. It is simply

to have the evidence in the cause upon which the committee was raised, reported to this body—that is, whether a member from Douglas county had attempted to bribe another member upon this floor. The chairman of the committee suggested, that so far as that charge was concerned, they were ready yesterday to report. As to the other branch of the resolution, that testimony should be taken on other charges, no gentleman has desired to abridge that. This side of the House voted for it; and this side of the House still proposes to carry out the investigation. But this branch of the resolution certainly did not propose, that the House should be delayed in relation to that other and very grave charge about which testimony has been closed and the committee are ready to report. I say, sir, that the remarks of the gentleman from Anderson are not warranted by anything that has been done in Convention—that they are gratuitous and untrue.

Mr. PARKS. Mr. President, my colleague (Mr. McDowell) is slightly mistaken. The gentleman from Lykins (Mr. Simpson) remarked to the [*325] committee that he had been informed *of certain evidence that was material to the charges. He did not say whether it belonged to the charges against the gentleman from Douglas (Mr. Hutchinson), or whether it belonged to the Boundary question, the Capital question, or what.

Mr. BLUNT. Mr. President, I have stated nothing, here as a mere matter of fact, but merely gave my own impressions; and the conclusions I had come to from certain engineering and manoeuvering scenes here yesterday: and I think I have a right to come to such conclusions. I stated nothing as a fact. Hence the charge of the gentleman that my statements were untrue, can have no effect. I am certainly allowed to judge of the motives of gentlemen by their actions. In relation to the seat of government, I will say, that I am willing now to go into the selection without any report at all. I am willing, either that the resolution of yesterday should be reconsidered and rescinded, or that it should remain till the committee shall have had time to report. But I do not want to go into the selection of the seat of government upon a partial report of these matters, because I think it would be placing parties in an embarrassing condition, and prejudice their interests.

Mr. THACHER. Mr. President, the history of this thing is singular, and would pay to be written out. In the first place, a paper that I never saw, was quietly circulated in the House, purporting that the member from Douglas (Mr. Hutchinson) had offered to bribe a certain person whose name was affixed to the paper, and it was used very industriously here as an argument why Lawrence should not be the seat of government. My excellent and somewhat earnest, enthusiastic, ardent and erratic friend from Shawnee (Mr. Ritchie) threw out some remarks on the subject. This was followed by the proposition from the gentleman from Leavenworth (Mr. Slough) to raise a committee of investigation upon the allegation that the Douglas member had sought to bribe another member to vote for Lawrence, as the capital, setting forth, that, whereas a certain delegate has sought to bribe a member upon this floor—

Mr. PARKS interposing. I do not like the line of argument the gentleman is pursuing, when he knows that I have told him that in the first resolution there was a mistake.

Mr. THACHER. Mr. President, I have given a true history of the case so far. And immediately upon the heels of that resolution, a gentleman deeply interested in the location of the Capital at Topeka, arose and moved that the Convention proceed to the temporary location of the seat

of government. I submit now, whether that motion was the fair thing: immediately after having thrown out the grave charge indicated in the resolution of the gentleman from Leavenworth, with which this question was connected—I submit whether it was fair to make a motion then to go into the selection of the seat of government. However, the Convention entertained the gentleman's resolution. Then I rose and stated, that, as it had been charged that the gentleman from Douglas had been trying to bribe another member, I would propose a substitute for the gentleman's resolution, submitting the entire question to the people, thereby indicating most clearly and unmistakably that we in Douglas county were perfectly willing to submit the entire question to the people. And, sir, it is known to every gentleman here how this proposition of mine was met—dodged I will say—for finally the whole question was postponed till we could hear from this committee of investigation. I knew there were other things in the case besides the simple charge against the delegate from Douglas county. I therefore offered the resolution that the committee be instructed to inquire into all charges of fraud connected with this location of the Capital. I apprehend that instead of confining the committee to the single charge against the gentleman from Douglas county, it were better to investigate the whole matter, and I therefore offered the sub-
[*326] stitute, and it became *as though the original resolution had contained what I submitted as an amendment, and it was made the duty of the committee to investigate all charges of fraud in connection with the location of the Capital. And now it is proposed to have a partial report, in order that the jury may have only half the matter before them. For if rumor be true, there will be as much evidence against other towns as have been alleged against Lawrence. I apprehend, that when political considerations are offered for a man's vote, the inducement is as great as though a "corner lot" were offered, and I cannot perceive any difference as to principle between them. This committee was not raised by the Republican members, but by the other side. And all we ask, now, is, to let the committee get all the evidence they can. Do not try to get a partial report, to prejudice action in the case. Let us see precisely how much treating and bartering has been gone into here. But I protest against gentlemen, after having raised their committee for a specific victim, and after having found that they have caught a Tartar, trying to forestall the action of that committee. I say to you, gentlemen, give them time to hear the case. You raised the committee for your own purposes: do not try to forestall their action because it is not likely to result as you desire. The principle upon which you are proceeding is unfair; for the motion before the Convention abandons the whole matter of the charge. Let us see whose votes have been influenced by political considerations, as well as who has been proposing to buy votes out and out, by the offer of "corner lots." In either case there is a great sacrifice of principle, and I think the former is the greater of the two. Let us have a full investigation.

Mr. RITCHIE. Mr. President, in the first place I must thank the gentleman from Douglas (Mr. Thacher) for his compliment toward me personally. I shall, as far as possible, proceed directly to the vindication of myself in this case—giving my recollection of all that has come before us in reference to this Capital question. My friend from Douglas (Mr. Thacher) has a brother, who is the publisher of one of the leading papers of the Republican party in the Territory. I have a communication from him, charging that he had heard that the Topeka delegation had "sold out to the northern annexationists"—and if any gentleman desires the document, it is here and can be seen and read.

Mr. N. C. BLOOD. Mr. President, I object to hearing personal explanations.

Mr. RITCHIE. I desire, sir, not to be placed in a position that would sacrifice Republican principles for any consideration whatever.

Mr. THACHER. I have no objection to the reading. But I would correct the gentleman. The writer is my cousin—not my brother.

Mr. RITCHIE. Mr. President, I am in for probing corruption to the core. I ask no favors. Let the scorn of all my friends fall upon any individual who goes about bribing by fraudulent and corrupt influences. Let it fall as hard upon Topeka as upon Lawrence, if found guilty.

[The paper was read—of which the Reporter has only the following sketch]:

"REPUBLICAN OFFICE, K. T.
July 15, 1859.

MY DEAR SIR,—I have heard it stated that the Topeka delegation are all going for the annexation of Southern Nebraska. I sincerely trust this is not so. No measure could be more fatal to Republican interests in Kansas," &c.

Mr. RITCHIE. The Topeka delegation, sir, have voted upon this question straight against annexation—every man. And it is well known to the Convention, that I held up this right arm, saying, Rather than have the Administration at Washington to come in and control us here by such a vote, it should fall. We all recollect. And that this slander, deep, black and damning, was only refuted by that speech. So deep and black was the stain fixed, that nothing but my vote and speech could restore to me again the post of honor, and honorable standing in this Convention. Sir, when [*327] Repub*lican members attempt to make a drive at my honor, I feel that it [is] as much a murder to be killed by a Douglas county man as by a Leavenworth county man. Sir, I must be consistent. In my first speech here I said, that my sense of patriotism made me here a representative for all parts of the Territory—that I should spread myself all over it—if it was but "a spreading" like that of poor Frank Pierce. (Laughter.) I want the capital located at Topeka. I am not going to skulldug anybody about that. That is so, distinctly. And, under the circumstances, I do not believe that any member of this Convention could do an act of more strict justice than to fix it at that point. This opinion is honest. I settled there at Topeka four years ago, and I settled there with a view to such a location. I settled there long before my friend from Douglas ever saw the Territory. It was after the Republican radicals had driven back the enemy, that he came on here in all his glory, without the shedding of one drop of blood. I was located here before he came here to talk so eloquently about those scenes of blood. I have seen the blood run, sir, poured out from the hearts of men who laid down their lives for freedom, and now I must be sacrificed—my honor must be put down in order that Lawrence may triumph! Sir, I'd see her in hell first! (Laughter.) I believe, sir, that every delegate from Douglas county, save Thacher, is willing and anxious that that delegation may not suffer under this damning allegation of perjury, but that they are as anxious as other members to fasten the odium upon the man that is guilty—and if Thacher was knowing to the act, he is as guilty as any other man. And when I saw that "bribery" article in the *Lawrence Republican*, I took him the paper, and asked him for an explanation. But he would not give it. I told him that I had certificates in my possession, and he knew it. I shall go for the deepest investigation by this committee,

and I hope time will be granted to them. I do not want to make capital on partial evidence. That would be to make double capital—and Thacher knows it.

The PRESIDENT. The gentleman from Shawnee will observe, that it is not in order, on the floor, to call gentlemen by their proper names.

Mr. RITCHIE. I ask pardon, sir.

Mr. THACHER. Mr. President, I shall be careful to avoid anything of that sort. I will simply say to the President of the Convention, that he might have discovered something of this character in my reference to the gentleman from Shawnee (Mr. Ritchie) as my ardent, enthusiastic, but somewhat erratic friend. But the gentleman has given an exhibition of these characteristics. And all these things have force in them! It is an argument that the capital should be located at a certain point, because the gentleman from Shawnee has lived there four years! And because a point of honor with that gentleman is involved, the whole people are to be called upon to vindicate his honor by a particular location of the capital! As far as his charges are concerned, I have simply this to say: that the same gentleman who brought the article to me, stated at the same time that it was charged that the Lawrence delegation had gone into a Minneola scheme, and agreed with me that all these things ought to be esteemed unworthy of mention in this body, but that it was better to let the committee pass upon all—not stifle anything. I admit the force of the argument of a residence for four years—looking to the location of the capital! A man's honor, also, is a matter of grave consideration in connection with the location of the capital! But I do insist, also, that the people have to determine this matter; and it is possible that some of the people of the northern and southern portions of the Territory have never yet so much as heard of the gentleman from Shawnee and his four year's residence in Topeka! or that his honor was at all involved in this question! But, Mr. President, let us keep this discussion to the point before us. And [*328] *I repeat, let none try to stifle investigation. I am willing to see the reputation of my colleague and my constituents in the broadest and fullest light that can be thrown upon it. And since the slur has been again thrown out that the Douglas delegation have sold themselves, I wish to state my conviction that when the facts shall come out, it will appear that the Lawrence delegation have refused greater inducements to corruption as to this question than any delegation on this floor. It will be seen and known, that the Douglas county delegation have planted themselves upon principle—that there has never yet been room for a doubt or query as to whether the Douglas county delegation were going to deflect from the straight line of duty. I think it has been already sufficiently found out that we were unwavering. But let all the facts come out!

Mr. SLOUGH. Mr. President, I submitted some remarks a few moments ago, upon the presumption that nearly all the testimony that would be gathered had been presented to the committee; but I am now satisfied, after hearing the remarks of gentlemen, that this investigation has not yet been completed; and as there seems to be an almost unanimous feeling to have a full investigation of the matter, I move to lay on the table both the original resolution and the pending amendment.

The yeas and nays being demanded and taken here, resulted—yeas 42, nays 6—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Brown, Barton, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hipple, Hubbard, Hutchinson, Hanway, Hoffman, Ingalls, Lillie, Lamb, Middleton,

Moore, McDowell, McClelland, McCullough, Preston, Parks, Porter, Ritchie, Ross, Signor, Slough, Stiarwalt, Stokes, Simpson, Thacher, Townsend, J. Wright, T. S. Wright, Williams—42.

NAYS—Messrs. Foster, Houston, McCune, Palmer, Stinson, Wrigley—6.

So the subject was laid on the table.

LOCATION OF THE SEAT OF GOVERNMENT.

Mr. GRAHAM. Mr. President, I move to reconsider the vote of yesterday postponing the order for the selection of the capital till after the report of the investigating committee.

And the yeas and nays being demanded, ordered and taken on this question, resulted—yeas 27, nays 22—as follows:

YEAS—Messrs. Brown, Barton, Foster, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Houston, Kingman, Lillie, Lamb, Middleton, Moore, McDowell, McCune, McClelland, Palmer, Parks, Porter, Ritchie, Ross, Slough, Stinson, Stiarwalt, J. Wright—27.

NAYS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Hutchinson, Hanway, Hoffman, Ingalls, McCullough, Preston, Signor, Stokes, Simpson, Thacher, Townsend, Wrigley, T. S. Wright, Williams—22.

So the vote was reconsidered, and the question recurred again on the adoption of the resolution.

Mr. GREER. I now offer a substitute for the whole matter.

The PRESIDENT. The position of the question is this: the resolution was originally offered by the gentleman from Shawnee (Mr. Greer). A substitute for it was offered by the gentleman from Douglas (Mr. Thacher). The ruling of the Chair then was, that he should hereafter regard all substitutes in the light of amendments. The resolution of the gentleman from Shawnee having been amended, by the substitute, is itself an amendment.

Mr. GREER. I propose to withdraw the resolution.

The PRESIDENT. The Chair is of opinion that the gentleman cannot withdraw the resolution. It has been the subject of amendment in the hands of the Convention, and so has gone beyond the power of the gentleman to withdraw it, without the consent of the body.

Mr. GREER. Then I offer the following as an amendment to the amendment of the gentleman from Douglas:

"*Resolved*, That the seat of government is hereby temporarily located [*329] at the city of Topeka, Shawnee county, until removed by a *majority vote of the electors of the State, in pursuance of law."

Mr. THACHER. Mr. President, I should like—although this really will involve the question whether we are willing to submit the temporary location to a vote of the people—to have the entire question submitted to the people altogether, and that the gentleman would withdraw and let us have a direct vote. But if the purpose is to forestall the people, gentlemen should remember that this action cannot change the question before the people.

Mr. GREER. Mr. President, this proposition contemplates a mere temporary location of the capital, until the meeting of the Legislature under the Constitution—leaving the whole subject to be submitted to the people by the first Legislature—taking the right of location from the Legislature, itself independent of the vote of the people. It is, to all intents and pur-

poses, a submission of the question to the people. It is a provision that it shall not be fixed by any other authority than the voice of the people. The attempt of the gentleman to show that this proposition takes away from the people the right to locate the capital, is not sustained by the proposition itself.

Mr. THACHER (in his seat). The argument is not worth a fig, for we are only fifty-two and the Legislature is composed of an hundred members from all parts of the State.

Mr. BLUNT. Mr. President, I wish to offer for adoption this amendment, as a substitute—for final action.

The PRESIDENT. The proposition will still be subject to amendment after the vote.

Mr. BLUNT. If the amendment of the gentleman from Shawnee should prevail, could a substitute be offered?

The PRESIDENT. It would be subject to further amendment.

Mr. ARTHUR. Mr. President, if we adopt this, is Topeka then the seat of government?

The PRESIDENT. This is not a final vote? The proposition might still be amended.

Mr. SLOUGH demanded the yeas and nays on Mr. Greer's amendment, which having been ordered and taken, resulted—yeas 26, nays 23—as follows:

YEAS—Messrs. Brown, Barton, Dutton, Foster, Forman, Greer, Griffith, Hipple, Hubbard, Houston, Middleton, Moore, McDowell, McCune, McClelland, Preston, Parks, Porter, Ritchie, Ross, Signor, Slough, Stinson, Stiarwalt, J. Wright, Wrigley—26.

NAYS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Graham, Hutchinson, Hanway, Hoffman, Ingalls, Kingman, Lillie, Lamb, McCullough, Palmer, Stokes, Simpson, Thacher, Townsend, T. S. Wright and Williams—23.

So Mr. Greer's amendment was adopted, and the question recurred on the resolution as amended.

Mr. BLUNT. Mr. President, I offer the following amendment by way of substitute:

Resolved, That at the election to adopt or reject this Constitution, the electors shall inscribe on their ballots the place of their choice for the temporary seat of government, which vote shall be returned and declared in like manner as the vote for and against the Constitution; and the place receiving the greatest number of votes shall be the temporary seat of government; and then the first Legislature that shall assemble under this Constitution, shall provide by law for submitting to a popular vote the question of a permanent location of the capital of Kansas; but no point shall be declared the permanent capital until it shall have received a majority of all the votes cast at some general election.

Mr. President, I may say that I disclaim having any feeling in the matter of the location of the seat of government; but I do not hesitate to say that if the choice of location lay between Topeka and Lawrence, I [*330] should vote for Lawrence without the *offer of any "corner lots," because I believe that in doing so, I should subserve the best interests of the people I represent. I know that their choice between these two points would be Lawrence. I regret that there is so much feeling on this subject

as we have seen manifested here in the last two or three days. And I am admonished that if we locate the temporary seat of government at any point, under the present excited state of feeling—after all that has been said outside of the Convention, and by the local presses representing the interests of these two points—that it will cast a stigma upon this body, and upon the whole Constitutional movement. It will enter into the canvass and hurl criminations and recriminations on either hand. It will enter into all our nominations for State and county officers. I am admonished that we are here engendering a fruitful source of difficulty for the future. Then why not trust this matter with the people, who are the source of all political power, and thereby rid ourselves of all the odium that might attach to this body in consequence of charges of corruption and fraud that will be hurled against us? I am willing to trust the people. I do not think that the mere temporary location of the seat of government for one or two years, or during a single session of the Legislature, is worth the contention we are making, or which certain parties are making in this Territory. We all agree that the matter of the permanent location of the seat of government should, and will be, submitted to the people. We are providing now only a sitting place for the first Legislature. Why not, then, submit the matter to the people, and take it for granted that the point which gets the highest number of votes will be some point that is accessible, and where ample accommodations can be had—I care not whether it be Lawrence, Topeka, or Leavenworth—and then let the Legislature provide for the permanent location by the people And if I were to suggest a programme for the permanent location of the seat of government, I would provide that the people should have three trials; that at the first election every point might be voted for, and if no point received a majority of all the votes, at the second election I would take the three highest on the former trial, to be voted for; and if neither of these received a majority, then at the third election the selection should be made between the two highest at the second trial. This arrangement would be fair. No one could complain against it. There is another argument in favor of the submission which I propose in my substitute. It is desirable that we should call out as large a vote as possible upon the occasion of the election for the adoption or rejection of the Constitution, and I propose that, not a majority, but a plurality of votes shall decide the point; because it is pretty well understood, I believe, that we would be left without a temporary seat of government if a majority were required, and all points were left open to the contest. And I am not in favor of the proposition of the gentleman from Johnson, that we should ballot, and the two points having the highest number of votes in the Convention should be voted for by the people. I am not in favor of that kind of squatter sovereignty. If I tender squatter sovereignty, I want it presented perfectly free and untrammelled. That you shall exercise your choice, provided you vote for one of two places we name, is the exercise of no sovereignty at all. I conceive that my proposition is fair and honorable, and one which does away with every possibility of unfairness or skullduggery; and I do not see how any member who is willing to dispose of this matter in a fair and honorable way, and who is willing to succumb to the will of the people, can refuse to accept it. But, if gentlemen refuse, and are determined by a combination to locate this capital at any point, they will [*331] find to *their sorrow that the disadvantages growing out of it hereafter, will be greater than all the temporary advantages likely to accrue from this temporary location. I hope gentlemen will consider these mat-

ters, and let us retire from this hall and go home with some little credit and respectability.

Mr. HIPPLE. Mr. President, I am very much obliged to the gentleman from Anderson (Mr. Blunt) for his care and concern for us as members of this body, in connection with our action on this question, and desire only to say to him that I shall vote for the temporary location of the capital at Topeka, and most willingly take the responsibility of that vote. The people have voted twice on the question of the location of the seat of government, and by an overwhelming majority have both times given Topeka as their choice.

Mr. GREER. Mr. President, I would like to place myself right in reference to the question of referring this to the people. I cannot see how my proposition is a refusal to submit the location to the people. It is, to be sure, not the proposition to make this temporary location by the people, but by their representatives. We are attempting to inaugurate here a representative government. Not a government of officials elected by a plurality of the people. The plurality system is not the system we want, but the majority system. Then this substitute of the gentleman from Anderson (Mr. Blunt) is not to submit the temporary location of the seat of government, except so far as it would be located by a plurality of the votes of the people; and less than half the voters might locate by his proposition; whereas, under my proposition the representatives of the people have a voice in it. So far as we are charged with bribery, corruption, bargain and sale in connection with this question, I am willing to meet that at any time, here or elsewhere. I am willing to see the State Capital temporarily located by the people's representatives, and I greatly prefer it to the plurality system. For there is no argument that might be used in favor of it in this case, that would not apply to the election of the state officers, and I see no basis for objection to this resolution of mine; for it does submit the question to the people at the proper time. Then again; the people do not expect that we shall now submit this question of the temporary location of the Capital to them—and we could not do it, without having some two, three or four elections on the subject. It is according to the spirit of our institutions, that the representatives of the people shall decide every question that cannot be submitted to the people themselves.

Mr. WRIGLEY. Mr. President, I shall vote for the temporary location of the capital at Topeka, because it is the almost unanimous desire of the constituents whom I in part represent—probably ninety-nine out of every hundred without distinction of parties. It is in fact part of our desire for a State government to have a temporary location of the seat of government. But I desire that the voice of the people should be heard whenever the permanent location is to be made. I am as much in favor of that, perhaps, as any gentleman on this floor. I could not support the amendment of the gentleman from Anderson (Mr. Blunt) because it necessarily involves the plurality principle, and in submitting this temporary location to a vote of the people, it must be manifest to every mind, that very likely one-tenth of the voters of Kansas might fix the capital. Those living near Lawrence, will vote for Lawrence; those living near and preferring Topeka, will vote for Topeka; those living near and preferring Manhattan, will vote for Manhattan; those preferring Leavenworth, will vote for Leavenworth, and so of all the towns in the Territory. The amendment provides that the place having the highest number of votes shall be temporarily the capital, and so it might be that not one-tenth of the whole number of votes [*332] *would be cast for the location. But, if the gentleman were to

amend his proposition, and say a majority of the votes cast shall be necessary to make the location, then in all probability there would be no place fixed upon. Now, it occurs to me, that, in some respects, this body is a very fair representation of the people of Kansas, and that we can safely consider ourselves as representing the people so far as the temporary location of the capital is concerned. So far as this question of fraud is concerned, if it should ever be brought up, I shall be ready to meet it.

Mr. BLUNT. Mr. President, I desire to say a word in reply to the gentleman from Shawnee (Mr. Greer) and especially to his remarks upon his proposition and mine, in regard to the permanent location of the seat of government, and which remarks, I think, are calculated to mislead the minds of members of this convention. Those who have paid attention to these propositions, will observe that there is a material difference between them relative to the permanent location of the seat of government. My proposition is, that the Legislature first assembled under this constitution shall provide for the submission of this question to the popular vote. That is made imperative. The first part of the proposition only provides for the temporary seat of government, which is a matter of minor importance. There is this difference between his proposition and mine. Whilst my proposition makes it imperative on the part of the Legislature at its first session to provide for the permanent location of the seat of government—his proposition does no such thing. But then again, the temporary location cannot be removed without the concurrence of a majority of all the votes cast. What then is the practical result under the gentleman's proposition? Why, the first Legislature may see proper to let the seat of government remain at Topeka, and defer any proposition for a re-location to succeeding years. They might conclude that the location is a good one—and, there being no action of the people requiring the question to be submitted, perhaps a few "corner lots" might induce them to let it rest at Topeka, and thereby defeat the will of the people for an opportunity to vote upon the question. I ask gentlemen to look at these distinctions. I want to leave nothing open for "skullduggery," and operations by means of "corner lots."

Mr. SLOUGH. Mr. President, believing that no further light can be shed upon this question, I insist upon the previous question.

Mr. BLUNT. We will have the yeas and nays on that.

Mr. SLOUGH. I withdraw the demand.

Mr. GRIFFITH. I, sir, am in favor of this convention settling the temporary location of the capital, but I would rather if it could be done in a different way. I think the proper way is to resolve to proceed to ballot for the temporary location, and continue to ballot till some one place shall receive a majority of all the ballots. Whilst I am well confirmed in my preference for the temporary location of the seat of government, that question did not enter at all into my canvass. After the election was over, I was asked where we should locate the capital? I replied, that I did not know—I presumed either at Lawrence or Topeka, but that my preference was for Topeka. And since I have arrived here I have had no inducements nor have I found any reason to change that preference. I think I have a right to assume that I represent a majority of my constituents—for the reason that heretofore two constitutions have submitted the question of the location of the capital, and both times Topeka has been selected. And whether I am correct or not in this judgment, I am established in it [*333] firmly, notwithstanding my friend here has threat*ened rather unfraternally to hold my action over me before my constituents. If we submit this to the people, I want to know if the excitement and indirec-

tions and inducements employed here, will not be more employed before the people? Will not dishonorable means be used, as it has been insisted they have been used here? and will not such an influence be much more wide before the people? Why, who knows but by such means a single county might locate the capital? I think, sir, we might be held as taking the responsibility of such a result, if we were to take such a course. I should not be disobliged on account of the location at any other point, but my preference is Topeka—on account of location, nothing else.

Mr. STIARWALT. Mr. President, for the last day or two I have heard matter here that I did not expect. Of course, I expected that the State Capital would be temporarily located by this body; and I should dislike to go back and tell the people that we were afraid to do it—and I think there is not a man here but would dislike to do so. I have no prejudice against any particular locality. It would suit me to have the capital near my place; but that might not suit the people whom I came here to serve. Let gentlemen do as they please on this question—vote for Topeka if they will because of that selection under two former constitutions ratified by republican votes. My democratic constituents never made any objection to that point; consequently, I am going to vote for Topeka. And I propose to vote by a *viva voce* ballot—so that every man may know each other's votes.

Mr. BURNETT. Mr. President, perhaps it would be well enough for me to give the reasons for my action, especially since I cannot agree with my colleague (Mr. Griffith). As far as I am concerned I have no very strong preferences either for Lawrence or Topeka; and I know nothing certainly of the preference of my constituents, but it is my opinion, that a majority of the people of Bourbon county would prefer Lawrence, from local considerations. I am very well aware that my colleague and others have a peculiar regard for Topeka, on account of associations in the past. I put my preferences for Lawrence upon local grounds. Topeka, I admit, has its merits on account of its associations with the struggle for a free state, and so has Lawrence. But my reasons stated, and the belief that a majority of my constituents would vote that way, will carry my vote for Lawrence.

Mr. THACHER. Mr. President, I perceive that we are outnumbered here—that the location is given to Topeka. But I wish, after all, to take the sense of the convention on the direct question, whether gentlemen dare submit this question to the people. Gentlemen have attempted to show that the people cannot locate by a plurality—that it was against the representative principle. But if that argument were worth anything, it would prove that gentlemen on this floor, who may not have received a majority of all the votes in their district, are not therefore representatives of the people. The argument is not worth a straw. The truth is, we ought to go to the people with this question. That is settled. And the town receiving the highest number of votes should be the capital; and when gentlemen try to set aside the correctness of this principle, they are trying to blind their own eyes.

Mr. GRIFFITH. Would you propose to make the permanent location by a plurality vote of the people?

Mr. THACHER. I would have the capital established by law. But you are binding up the hands of the Legislature. You dare not trust them with this question, but you bind them up to specific conditions. There would have been more fairness in it if you had said, the seat of govern-

ment shall be temporarily located at Topeka, and then hereafter established and provided for by law. I know you have the power here, although I [*334] believe you *are misrepresenting the people in this matter. I believe that the entire south would prefer Lawrence. But now I have no feeling in the matter. I am content, that the facts are to go forth to the people. But I do say that the idea that you should specially plead here, that this question submitted to the highest number of votes is no fair representation, is most absurd. It is an argument even against the right by which some gentlemen hold their seats on this floor. I propose to leave it all to the Legislature after the first temporary location by the people.

Mr. J. BLOOD. Mr. President, it has been urged that the submission of the question to the people would not secure a majority. This has been used as an argument against submission. But, as I understand the amendment adopted, it locates the Capital at Topeka, until a majority of the voters shall have voted for another place. The effect of that must be to fix the Capital at Topeka for a number of years. I think that members might hesitate, if they saw, as they must see, that the effect of their resolution, if they adopt it as amended, must be to fix the location at Topeka for at least three, or perhaps five years, or perhaps for a longer period.

Mr. SLOUGH demanded the yeas and nays on Mr. Blunt's amendment, and they were seconded and ordered, and, being taken, resulted—yeas 22, nays 27—as follows:

YEAS—Messrs. Burnett, Barton, Burris, Blunt, J. Blood, N. C. Blood, Crocker, Dutton, Hutchinson, Hanway, Hoffman, Ingalls, Kingman, Lillie, McCullough, Preston, Signor, Stokes, Simpson, Thacher, Townsend, Williams—22.

NAYS—Messrs. Arthur, Brown, Foster, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Houston, Lamb, Middleton, Moore, McDowell, McCune, McClelland, Palmer, Parks, Porter, Ritchie, Ross, Slough, Stiarwalt, Stinson, J. Wright, Wrigley, T. S. Wright—27.

So the amendment was rejected; and the question recurred again on the adoption of the resolution as amended by Mr. Greer.

Mr. GRAHAM offered the following amendment, by way of substitute:

"*Resolved*, That the roll be called, and each member, as his name is called, give the place he prefers as the point for the location of the temporary seat of government; in case no place receives a majority of all the votes cast on the first ballot, the roll shall be again called, confining the vote to the four places having the largest number of votes; and if no choice is made, the place having the largest number of votes shall be dropped, and so on until some one place shall have a majority of all the votes cast."

Mr. Graham's substitute was adopted without a division.

Mr. SLOUGH made an ineffectual motion to adjourn.

The question still recurring on the adoption of the original resolution, as now amended by Mr. Graham—

Mr. THACHER offered the following amendment by way of substitute:

"The qualified electors shall vote, at the election held to adopt or reject this Constitution, for Lawrence or Topeka as the temporary Capital, and the one having the highest number of votes shall be temporary Capital until changed by law."

The yeas and nays were demanded, and taken on this amendment, the vote resulting—yeas 20, nays 29—as follows:

YEAS—Messrs. Burnett, Blunt, N. C. Blood, J. Blood, Burris, Crocker, Griffith, Hutchinson, Hanway, Hoffman, Ingalls, Kingman, Lillie, McCullough, Signor, Stokes, Simpson, Thacher, Townsend, Williams—20.

NAYS—Messrs. Arthur, Brown, Barton, Dutton, Foster, Forman, Graham, Greer, Hubbard, Hipple, Houston, Lamb, Middleton, McDowell, Moore, McCune, McClelland, Preston, Palmer, Parks, Porter, Ritchie, Ross, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—29.

So the amendment was rejected.

The Convention then took a recess till three o'clock, p. m.

[*335] *AFTERNOON SESSION.

The President called the Convention to order at 3 o'clock.

Mr. SLOUGH. Mr. President, I move a call of the House.

The PRESIDENT. The Clerk will call the roll.

Messrs. Houston, May, and Perry were reported as absent.

Mr. STINSON. Mr. President, I move that the further proceedings in the call be dispensed with.

The motion was agreed to.

The question being on the adoption of the resolution as amended by Mr. Graham—

Mr. BURNETT. Mr. President, I offer the following as a substitute amendment:

Resolved, That this Convention proceed to the election of three commissioners, whose duty it shall be to centrally locate the permanent capital of the State of Kansas; and that said commissioners be authorized to contract and provide for the erection of suitable buildings at said location of the value at least of two hundred thousand dollars free of expense to the State of Kansas; and that said commissioners also provide that said buildings shall be completed within two years from the adoption of this Constitution; said buildings to be subject to the approval and acceptance of three commissioners to be elected by the Legislature of Kansas in joint assembly. Said first named commissioners shall also provide for temporary accommodations of coming Legislatures (until the completion and acceptance of buildings above named), free of expense to the State of Kansas.

Mr. BURNETT. This question has excited a great deal of interest in this Convention. There are persons here from particular localities who are very much interested; and if it is of so much pecuniary interest to these towns it should be made so to the people of Kansas. It seems to me this resolution will provide a way how our capital will be built free of expense to the people. In Vermont our old capital was destroyed by fire and this course was pursued. I venture to predict that if we adopt [a] policy similar to the one proposed, it will save half a million of dollars to the State of Kansas. I hope the Convention will give this subject a calm and careful consideration.

Mr. FOSTER. Mr. President, if I understand the proposition it is that three commissioners shall proceed to select the grounds and erect buildings for the future capital of this State. Under ordinary circumstances these buildings could not be erected for three or four years. The amount of it is, to take it out of the hands of the Legislature and give it to three commis-

sioners. I take it that such a project should not be put into the hands of three men.

The yeas and nays were demanded on the adoption of the resolution, and being ordered and taken resulted—yeas 19, nays 30—as follows:

YEAS—Messrs, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Hutchinson, Hanway, Hoffman, Kingman, Lillie, McCullough, Signor, Stokes, Simpson, Townsend, Thacher, Williams—19.

NAYS—Messrs. Arthur, Brown, Barton, Foster, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Houston, Ingalls, Lamb, Middleton, Moore, McDowell, McCune, McClelland, Preston, Palmer, Parks, Porter, Ritchie, Ross, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—30.

So the motion was rejected.

Mr. BLUNT. I wish to offer the following amendment. I see it is a foregone conclusion that the capital is to be located at a certain place, and I want to make provision for its permanent location by adding these words:

"And that the first Legislature under this Constitution shall provide by law for submitting the question of the permanent location of the capital of Kansas to a popular vote, and a majority of all the votes cast at some general election shall be necessary for such location."

The resolution was adopted.

Mr. BURRIS. I desire to offer the following amendment:

"*Resolved*, That a *viva voce* vote of this Convention be now taken for temporary capital of the State of Kansas, and that the places re-[*336] *ceiving the two highest numbers of votes be proposed to the people of Kansas for temporary capital at the election and ratification or rejection of this constitution; and that the one of such two places receiving the largest number of votes, shall be the temporary capital of the State of Kansas until changed by a vote of the people of said State, at some general election, as may be provided by law."

Mr. GRAHAM. That same matter was voted this forenoon.

Mr. BURRIS. The question was not precisely the same. The amendment proposed by the gentleman from Douglas was that the people be required to vote only on Topeka and Lawrence, and the one receiving the majority should be the capital. This provides that we now proceed to a *viva voce* vote, and the two places receiving the highest number of votes be presented to the people, as it might be Leavenworth and Olathe.

The PRESIDENT. The judgment of the Chair is that the amendment is in order.

The yeas and nays were demanded on the adoption of the resolution, and being ordered and taken, resulted—yeas 19, nays 30—as follows:

YEAS—Messrs. Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Hutchinson, Hanway, Hoffman, Kingman, Lillie, McCullough, Signor, Stokes, Simpson, Thacher, Townsend, Williams—19.

NAYS—Messrs. Arthur, Brown, Barton, Foster, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Houston, Ingalls, Lamb, Middleton, Moore, McDowell, McCune, McClelland, Preston, Palmer, Parks, Porter, Ritchie, Ross, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—30.

So the resolution was rejected.

Mr. KINGMAN. Mr. President, I desire to offer the following amendment in the nature of a substitute:

"*Resolved*, That the capital of the State of Kansas shall be located as follows:

SECTION 1. The capital of the State of Kansas shall be temporarily located at ————, where it shall remain four years.

SEC. 2. The first Governor elected in this State and the person receiving the next highest number of votes for the office of Governor at said election, shall constitute a Board, who shall proceed to locate the permanent capital of this State under the following regulations:

They shall select a place as nearly central and suitable as practicable with reference to the present and future population of the State, and purchase for a sum not exceeding $———, and secure to the State of Kansas the title to twelve hundred and eighty acres of land, and shall proceed to lay the same off into suitable grounds, streets, alleys and lots, file a plot of the same in the Executive office of the State, and in the register's office of the county where the capital may be located.

SEC. 3. The Auditor of the State shall make sale of the lots so laid off, as follows: He shall advertise the time of sale in one paper in each county in the State where a paper may be published, and at the time advertised shall proceed to sell to the highest bidder one-third of said lots, for cash in hand the money to be paid to the State Treasurer. Upon the presentation of the Auditor's certificate of sale, and the Treasurer's receipt for the purchase money, the Governor of the State shall make title by deed to the purchaser. One year after the first sale another third of said lots shall be sold and payment and conveyance made in the same manner; and in two years from the first sale the other third together with all lots offered at either of the two previous sales and not sold or paid for shall be sold and payment and conveyance made in the same manner as in the first sale. In the first sale the Auditor shall sell one lot, and pass over two, and sell the next, and in the second sale he shall sell the alternate unsold lots.

SEC. 4. The money arising from the sale of said lots shall constitute a fund for the erection of public building at the capital.

[*337] *SEC. 5. Should the Board named in section 2 be unable to agree, the Lieut. Governor shall be a member of the Board, and a majority shall decide all questions.

Mr. HUTCHINSON. Mr. President, is it in order to call for its consideration section by section?

The PRESIDENT. The Chair would suppose it is.

Mr. HUTCHINSON. I make that motion.

Mr. WRIGLEY. Mr. President, if it is to be considered by sections, I ask whether it is different from a resolution which has been already offered?

The PRESIDENT. The Chair is of opinion that the proper mode of proceeding would be similar to that adopted in the consideration of a bill, first read by sections, and finally, after the subject matter has been made satisfactory, adopt the article.

Mr. SLOUGH. Mr. President, it is very clear that no other possible methods could be devised than those that have been presented to the Convention. It looks as if there was a design (I don't charge it upon any one) to protract this discussion. For the purpose of bringing the matter to a close, for it is folly to occupy more time, I move the previous question.

The yeas and nays were demanded upon the question, "Shall the main question be now put?"

The PRESIDENT. The Chair understands the gentleman's motion cuts off all debate and amendments.

Mr. SLOUGH. It is for the purpose of cutting off debate only.

Mr. GRAHAM. Mr. President, in my recollection where the previous question has been moved in Congress, the amendments pending were not acted upon. The previous question cuts off all debate and amendments. I don't know what rules you have adopted here.

Mr. THACHER. I think Mr. Graham is right about that.

The PRESIDENT. The Chair will read from Cushing, page 48.

Mr. WRIGLEY. As the Chair has ruled would not the previous question—

The PRESIDENT. The Chair is desirous of hearing authorities.

Mr. WRIGLEY. I am asking for information. Would not the previous question be that we have a vote upon the original proposition as amended by the gentleman from Atchison?

Mr. BURRIS. As I understand the previous question it is to bring the House upon a vote upon the main question before the House. If I am not mistaken such is the position we are in now.

Mr. HOUSTON. Mr. President, we had this question on this Nebraska question. At that time there were some amendments pending. The gentleman from Brown moved the previous question, and it was ruled that it cut off all amendments, and the question again recurred on the original question, cutting off the amendments. My impression was that that ruling was not correct, but I did not wish to have a discussion with the Chair, and I let it pass. I do not understand that when the previous quest on is called, and seconded, it cuts off all amendments. It seems to me the intention of the previous question is to suspend debate and bring the House at once to a vote upon the question as it is upon the amendments pending. That is my view.

Mr. SLOUGH. As I cannot now lay my hand upon the rule, though I am satisfied of its correctness, I make the motion so that I can demand the previous question upon the amendments.

The PRESIDENT. The Chair is clearly of opinion his decision is right. (Reads from Cushing, page 1420.)

Mr. SLOUGH. To clear up that point I propose to couple with my motion the purpose to cut off debate upon all questions and bring them directly before the House for action.

The PRESIDENT. The Chair would state another effect which this motion has. In case the call for the previous question shall be decided [*338] *in the affirmative the main question will be put immediately; but provided it be decided in the negative it cannot be put to-day. It throws over the entire question to another day.

Mr. STINSON. I would cite the Chair to section 4, page 221, of the work he has been reading from.

The PRESIDENT. The Chair does not see how that interferes with the previous paragraph.

Mr. STINSON. The matter under discussion is an amendment.

The PRESIDENT. It is the capital question, in the understanding of the Chair.

Mr. SLOUGH. I withdraw the motion.

Mr. STINSON. Is not the motion to adopt the substitute in the nature of an amendment?

The PRESIDENT. A motion was made that it be considered by sections. It will be out of order for the Convention to adopt it and then consider it by sections.

Mr. STINSON. Was not the first motion to adopt?

The PRESIDENT. The first motion was the motion of the gentleman from Douglas (Mr. Hutchinson) to adopt by sections.

Mr. MCDOWELL. Did I understand the Chair to rule that the amendment of the gentleman from Brown (Mr. Kingman) would be taken up section by section and passed upon?

The PRESIDENT. The proposition to amend being of the nature of a plan comprised in different sections, it would be absurd to resolve to adopt it and then proceed to consider it section by section. A motion has been made to adopt it section by section.

This motion was rejected.

The yeas and nays were demanded on the adoption of the amendment.

The PRESIDENT. The Chair desires to read a paragraph with reference to the previous question, from the same authority. (Reads.)

Mr. SLOUGH. With the permission of the House in justification of the position I assumed, I propose to read a little from the same law. The President is correct with regard to the English Parliamentary usage; but I find in Cushing a rule applicable to assemblages in the United States. (Reads.)

The PRESIDENT. That is true with regard to bodies in the United States.

Mr. BLUNT. Mr. President, I move to strike out, in the first section, the words "four years" and insert "one year."

Mr. STINSON. Not in order.

The PRESIDENT. The Chair thinks it is.

Mr. STINSON. I think it is not an amendment in the second degree.

The PRESIDENT. A proposition may be amended four score times, and then still amendments will be in order; but not more than two at the same time.

Mr. STINSON. I so understand the law; but I understand that the proposition as originally made by the gentleman from Shawnee, was an amendment to a proposition then pending.

The PRESIDENT. The original motion was made by the gentleman from Shawnee; different motions to amend have been made from time to time, until the question recurred upon the original proposition as amended.

Mr. MCDOWELL. Mr. President, I do not profess to know anything about parliamentary law. What will be the effect of moving to lay the amendment upon the table? It cuts off discussion, that is one; and the other question is, whether moving to lay a particular amendment upon the table takes everything upon the table?

The PRESIDENT. The Chair does not so understand it.

Mr. GRIFFITH. I would enquire what has become of the amendment offered by the gentleman from Atchison?

The PRESIDENT. It was adopted. All after the word "Resolved" was stricken out, and in their place was substituted the amendment of the gentleman from Atchison.

Mr. GREER. On yesterday I offered a resolution that the House go into [*339] ballot for the location of the capital. After an amendment *offered by the gentleman from Douglas was voted down, it left my proposition before the House. On this morning I offered a substitute which was adopted. Now that substitute has been amended by the gentleman from Atchison.

The PRESIDENT. The amendment of the gentleman from Atchison struck out all after the word "Resolved." The Chair stated on yesterday that in order to simplify this question, as he foresaw a great deal of difficulty, that he would rule all substitutes as amendments; and the effect of that would be, in this case, to strike out all after the word "Resolved," and substitute the amendment in its place. The question before the Convention after dinner was upon the motion of the gentleman from Atchison, which had taken the place of the proposition of the gentleman from Shawnee.

Mr. RITCHIE. Is the question on the amendment offered by the gentleman from Brown? (Mr. Kingman.)

The PRESIDENT. The question is upon the amendment of the gentleman from Anderson (Mr. Blunt) to the amendment of the gentleman from Brown (Mr. Kingman).

The amendment was rejected on a division—affirmative 16, negative 25.

The yeas and nays were demanded on Mr. Kingman's amendment, and being ordered and taken resulted—yeas 16, nays 33—as follows:

YEAS—Messrs. Burnett, Burris, J. Blood, N. C. Blood, Crocker, Graham, Hutchinson, Hoffman, Kingman, Lillie, McCullough, Stokes, Simpson, Thacher, Townsend, Williams—16.

NAYS—Messrs. Arthur, Blunt, Brown, Barton, Dutton, Foster, Forman, Greer, Griffith, Hipple, Hubbard, Hanway, Houston, Ingalls, Lamb, Middleton, Moore, McDowell, McCune, McClelland, Preston, Palmer, Parks, Porter, Ritchie, Ross, Signor, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—33.

So the amendment was rejected.

Mr. GRAHAM. Mr. President, I rise for the purpose of moving the previous question.

The demand was seconded.

The resolution was then adopted under the operation of the previous question.

Mr. GRIFFITH. Mr. President, before the vote on this question is taken, I desire to submit a word. The question of the location of the temporary capital did not enter into the canvass in the county which I in part represent. We must, therefore, vote as our individual judgment directs.

The people of Kansas have passed upon two Constitutions in which the temporary capital was located at Topeka. I never have heard any of my constituents urge an objection to this location in either of the Constitutions. I shall vote for Topeka as the place for the temporary capital, not because I may have any property interests in the place, but because of its historic associations with the struggle for freedom in Kansas. I shall take this responsibility, although the gentleman on my right (Mr. Thacher) thinks that possibly I may not represent the majority of my constituents in this vote.

THE PRESIDENT. The Clerk will now proceed to call the roll, and members of the Convention will answer the place of their choice for the capital of the State of Kansas.

The first call of the vote resulted as follows:

Arthur, Mound City; Burnett, Mapleton; Blunt, Minneola; Brown, Topeka; Barton and Burris, Olathe; J. Blood and N. C. Blood, Lawrence; Crocker, Burlington; Dutton, Stanton; Foster, Topeka; Forman, Topeka; Graham, Atchison; Greer, Topeka; Griffith, Manhattan; Hipple and Hubbard, Topeka; Hutchinson, Lawrence; Hanway, Minneola; Hoffman, Leroy; Houston, Manhattan; Ingalls and Kingman, Atchison; Lillie, Emporia; Lamb, Mound City; Middleton, Atchison; Moore, McDowell, McCune and McClelland, Topeka; McCullough, Emporia; Preston, Burlingame; Palmer, Louisville; Parks, Kickapoo; Porter, Troy; Ritchie and Ross, Topeka; Signor, Humboldt; Slough and Stinson, Topeka; Stiarwalt, Palermo; Stokes, Lawrence; Simpson, Paola; Thacher, Lawrence; Townsend, Big Springs; J. Wright, Topeka; Wrigley, Pike's Peak; T. S. Wright, Atchison; Williams, Lawrence; Mr. President, Superior.

[*340] *Mr. WRIGLEY. Mr. President, I voted for Pike's Peak. I withdraw that town from the contest.

Mr. KINGMAN. He withdraws it from the canvass.

The PRESIDENT. The Chair will state that, according to the resolution, all except the four highest were to be dropped. It seems there are three which have a larger number of votes than the others, and three other towns have an equal number, rendering it impossible to comply with the strict provisions of the resolution.

Mr. BLUNT. I move that it be restricted to two.

The PRESIDENT. The gentleman would have to move a reconsideration of the resolution. By general consent the candidacy will be confined to the three highest—Topeka, Lawrence and Atchison. The Clerk will call the roll.

The second call of the roll resulted as follows:

Arthur, Topeka; Burnett and Blunt, Lawrence; Brown and Barton, Topeka; Burris, J. Blood, N. C. Blood and Crocker, Lawrence; Dutton, Foster and Forman, Topeka; Graham, Atchison; Greer, Griffith, Hipple and Hubbard, Topeka; Hutchinson, Hanway and Hoffman, Lawrence; Houston, Topeka; Ingalls and Kingman, Atchison; Lillie and Lamb, Topeka; Middleton, Atchison; Moore, McDowell, McCune, McClelland, McCullough and Preston, Topeka; Palmer, Atchison; Parks, Porter, Ritchie, Ross, Signor, Slough, Stinson and Stiarwalt, Topeka; Stokes, Simpson, Thacher and Townsend, Lawrence; J. Wright and Wrigley, Topeka; T. S. Wright, Atchison; Williams, Lawrence.

Necessary to a choice, 25. Topeka received 26; Lawrence, 14; Atchison, 6.

The PRESIDENT. Topeka having received a majority of all the votes cast, is the choice of this Convention as the temporary capital of the State of Kansas.

MISCELLANEOUS.

Mr. SLOUGH. Mr. President, the report of the committee on miscellaneous matters passed through the committee of the whole has never been acted upon in the House.

Mr. THACHER. We adopted the article as a whole when it came from the committee of the whole.

Mr. STINSON. If the gentleman will excuse me: we went into committee of the whole before it was printed. I made the motion that the further consideration be postponed until the article was printed.

Mr. THACHER. I call for the reading of the journal in relation to that.

The PRESIDENT. The Chair is of opinion that the gentleman from Leavenworth is correct. If no objection is made it will be taken up.

Mr. INGALLS. Mr. President, with the consent of the Convention, I would like to submit the following report on the article miscellaneous:

"The committee on phraseology and arrangement having had under consideration the articles entitled 'miscellaneous' and 'judiciary,' beg permission to submit the following:

REPORT—MISCELLANEOUS.

Section 1, lines one and two, strike the words 'in this Constitution.' In line two strike out 'in such manner.'

Section 2, line one, for 'duration' read 'term.' For the first clause read as follows: 'The term of any office not herein provided for may be declared by law.' In fifth line strike out 'and if' and read 'when.' In line six make a comma instead of period after 'appointment' and connect the two sentences.

Section 3. Strike out 'for any purpose whatever shall be,' and read 'are.' Strike out the words 'in this State.'

Section 4. Strike out lines ten, eleven and twelve as far as the words 'shall be let,' and read 'all public printing.'

Section 5. In line fifteen insert 'the' between 'and several.' Strike out 'from time to time.'

Section 6. For 'general assembly' read 'Legislature.' Strike out 'by [*341] law' in line seventeen. In line eighteen strike out words *'the' and 'of.' In line nineteen strike out 'or other person.' In line twenty strike out words 'with the husband' and all after 'children.'

Section 7. Strike out 'shall have power to,' and read 'may.' In line twenty-four, before 'duty' read 'legal,' strike out the words 'that may be assigned them by law.'

Mr. KINGMAN. I move to take up the report of the committee on arrangement and phraseology and adopt it.

Mr. THACHER. I ask the gentleman from Brown (Mr. Kingman) to amend his motion so that we may take up both.

Mr. KINGMAN. Agreed.

The PRESIDENT. By consent it is so ordered. Unless objection is made, it will be taken up section by section.

The committee's amendments to the miscellaneous article were then read, section by section, and severally adopted.

Mr. HUTCHINSON. Mr. President, I desire to move to reconsider the vote adopting the sixth section, for the purpose of amending it in one particular. It now grants protection to the rights of women married and single in acquiring and possessing property, real, personal and mixed. I propose to add the word 'defending' after 'possessing.'

Mr. MCDOWELL. Mr. President, it does seem to me the word protection covers all general usage. It would be necessary to make a reconsideration to get in that useless word.

The motion was lost upon a division—affirmative 18, negative 19.

Mr. HUTCHINSON. I had an impression that two gentlemen rose in that part of the House who were not counted. I will ask for the yeas and nays.

The yeas and nays were ordered, and being taken, resulted—yeas 22, nays 26—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, J. Blood, N. C. Blood, Crocker, Dutton, Griffith, Hutchinson, Hanway, Houston, Lamb, McCullough, Preston, Porter, Ritchie, Signor, Stokes, Simpson, Thacher, Townsend, Williams—22.

NAYS—Messrs. Brown, Barton, Burris, Foster, Forman, Graham, Greer, Hipple, Hubbard, Hoffman, Ingalls, Kingman, Lillie, Middleton, Moore, McDowell, McCune, Palmer, Parks, Ross, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright—26.

So the motion to reconsider was rejected.

Mr. GREER. I offer the following as an additional section. I believe it should be numbered section 8—I am not certain:

"SEC. 8. The temporary seat of government of the State of Kansas is hereby located at the city of Topeka, county of Shawnee; and the first Legislature under this Constitution shall provide by law for submitting the question of the permanent location of the capital of Kansas to a popular vote; and a majority of all the votes cast at some general election shall be necessary for such location."

The PRESIDENT. The Chair is of opinion the section is not in order, from the fact that the resolution adopted by the Convention covers the ground.

Mr. GREER. I withdraw it to offer the following:

"The capital of this State is hereby located at Topeka, Shawnee county, until removed by a majority vote of the electors of the State."

Mr. BLUNT. I would like to know if that question has not been settled by the adoption of the resolution of the gentleman from Atchison?

The PRESIDENT. The Chair will state that the section, to be in order, must conform to the resolution which was adopted by the Convention.

Mr. KINGMAN. I think the better way will be to let it go to the committee on phraseology and arrangement.

The PRESIDENT. The committee can be instructed to prepare a section in accordance with the terms of the resolution passed.

Mr. SLOUGH. I think we had better dispose of it here.

Mr. GRIFFITH. Would it not cover the whole ground if the resolution should be made a section in the miscellaneous department?

[*342] *The PRESIDENT. It would.

Mr. GRIFFITH. I make that motion.

The motion was agreed to.

Mr. PRESTON. Mr. President, if in order, I would like to offer an additional section. I will read it.

"SEC. ——. The Legislature shall have power to regulate or prohibit the sale of alcoholic liquors, except for mechanical and medicinal purposes."

Mr. SLOUGH. I move to lay it on the table.

Mr. BLUNT. And a bottle of whiskey with it.

The yeas and nays were demanded on the motion to lay on the table, and being ordered and taken, resulted—yeas 19, nays 31—as follows:

YEAS—Messrs. Blunt, Brown, Barton, Foster, Hipple, Hubbard, Hoffman, Ingalls, Lillie, Moore, McDowell, Palmer, Parks, Porter, Slough, Simpson, Thacher, J. Wright, Wrigley—19.

NAYS—Messrs. Arthur, Burnett, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Forman, Graham, Greer, Griffith, Hutchinson, Hanway, Houston, Kingman, Lamb, Middleton, McCune, McClelland, McCullough, Preston, Ritchie, Ross, Signor, Stinson, Stiarwalt, Stokes, Townsend, T. S. Wright, Williams—31.

So the motion was rejected.

Mr. STINSON. I move to insert after the word "medicinal," the words "and other."

The motion was laid on the table.

Mr. THACHER. Mr. President, I hope the Convention will pause a little before going into this special legislation. There is no doubt but that the Legislature has complete control over this question, and I do not wish to see this Constitution enter into these details. I suppose I am as strong a temperance man as there is upon this floor—I never tasted a drop of whiskey in my life. I don't know what it tastes like—but after all, I think it is unwise for us to incorporate a provision of this nature into the Constitution. You gain nothing by it—you lose by it. I submit to members of the Convention that it would be but to defeat the Constitution before the people. I think all these things had better be left to the people, and if they demand a prohibitory law, I trust we will have a Legislature that will pass such a law. But don't let us insert such a provision in the Constitution. The enemies of the Constitution will be very glad to seize upon a principle like that. I do not think it wise to have any special legislation in a Constitution. We are framing the first Constitution for the State. Let us leave these vexed questions to one side, trusting to the Legislature to regulate all these things. It is unwise for us to jeopardize the Constitution with so much legislation. My view is upon this ground, and I agreed with the gentleman from Leavenworth, Mr. Slough, the other day, when he moved to strike out of the article on education a clause referring to separate schools for negroes. The Legislature having complete control over this matter, I was unwilling to see the Constitution lumbered with all this buncombe kind of legislation. I trust this thing will not be pressed. I am sure there is no stronger temperance man than I am, but I am opposed to this section, believing it to be impolitic. Don't let us jeopardize the interests of our party by bringing in questions of this kind. In New York it was sought to be inserted there, but it was opposed by the strongest temperance men in the State, upon the ground that it was not in the issues at all. The great issue with us being freedom or slavery, let us settle this question. I beg of you not to incorporate a handle for our enemies to employ against us. Leave it to the Legislature, and let us pass only upon our legitimate business.

Mr. HUTCHINSON. Mr. President, although I cannot say I never drank a drop of whiskey in my life, I believe there is some necessity for the passage of this section. If it were true that we are to struggle forever for [*343] freedom of Kansas; if it were *true that the one question of slavery was to be kept forever alive in Kansas, then I would like to see nothing but what would bring "nigger" before our eyes; but I believe there are questions of the utmost importance which will come before us, as well as that question. It is not a question settled by law nor precedent. If we are looking to the future moral as well as political well being of Kansas, let us throw a guard around it while the power is in our hands. It can do no harm. I doubt whether there is a man in the whole State who will vote against the Constitution in consequence of a provision of that kind.

A motion to adjourn was rejected upon a division—affirmative 18, negative 21.

Mr. BLUNT. Mr. President, I do not desire to make a temperance or anti-temperance speech, but I rise to enter my protest against this Convention voting down this Constitution, by loading it with extraneous issues which can possibly be of no benefit. If we adopt such a provision it will array a large class of people against the Constitution. I believe that the history of the temperance cause in this country has proved that no good has ever resulted from attempting to legislate upon it in this way. I am in favor of temperance, but I think the legislature has jurisdiction over this matter, and has authority to pass stringent laws upon the subject. I think we have now in this Constitution some things that are going to embarrass it, and if we go on bringing up these issues we may look for certain defeat. I do protest against this whole policy; so do I protest against this course being pursued by men who have been exhorting me not to bring up extraneous questions here; and if they do not regard the safety of the Constitution sufficiently to forego these questions, then I must be left to pursue the course I may deem proper.

Mr. PRESTON. Mr. President, I was surprised to hear the gentleman from Douglas' (Mr. Thacher) arguments. He has been arguing against this section because it is special legislation. I want to know if we have not several articles in substance like this, already in the Constitution, saying the Legislature shall have power to do this thing and that thing? If the legislature has power to act without special constitutional enactment, why not say that they shall have power to do what they please? If the legislature should ever want to enact a liquor law, I suggest that there should not be anything in the way.

Mr. STINSON. I will simply state that in Maine, where there is no constitutional provision, a law has been declared constitutional more stringent than any you will get here.

Mr. PRESTON. I think that allowing the sale of intoxicating liquors indiscriminately as against humanity, is the worst thing that can happen; and I desire to see this State take a stand upon the side of temperance; and if we have stringent laws upon our statute book, we certainly shall have a moral people. I am in favor of the section.

The yeas and nays were demanded.

Mr. PRESIDENT WINCHELL. (Mr. Townsend in the Chair.) I desire to say one word upon this question. I presume my own position as to temperance will not be challenged. If I may believe legal arguments, this section seems to be necessary; and I agree with those who advance the argument that it is unnecessary—if the decision of the courts has rendered it competent for the legislature to deal with this question in its own way, it is folly for different reasons to incorporate it in our organic law. I believe gentlemen who make these statements are in possession of the facts, and know whether they are correct or not. It is a matter in regard to which I do not profess to be posted; but, taking these statements to [*344] be correct, it seems to *me this section had not better be incorporated into the Constitution.

Mr. HUTCHINSON. I would add that a similar section has been incorporated into the constitution of Minnesota or California. After due consideration of the subject, it was believed it would be necessary.

Mr. PRESTON. I withdraw the section.

The article on miscellaneous, as amended by the committee of arrange-

ment and phraseology, was then adopted, and recommitted, under the rule for arrangement and enrollment.

And then

On motion, the Convention adjourned till Monday morning, 8 o'clock.

MONDAY, July 25, 1859.

The Convention met at 8 o'clock, A. M.

Prayer by the Chaplain.

The absentees on the roll-call were Messrs. Brown, Crocker, May, Perry, Ross, Thacher and J. Wright.

The journal of Saturday was read and authenticated.

ASSISTANT SERGEANT-AT-ARMS.

The President announced that the Sergeant-at-Arms had appointed Mr. Francis House as his Assistant.

KANSAS CLAIMS.

Mr. BLUNT submitted the following:

"*Resolved*, That a committee of four be appointed to draft a Memorial to Congress, asking for an appropriation from the general government to pay the claims of the citizens of Kansas, awarded by the Commissioners appointed under the Act of the 7th of February, 1859."

Mr. STINSON. Mr. President, before that resolution is adopted, I suppose the committee on Ordinance should be discharged from that duty.

The PRESIDENT. The Chair understands that by previous action, the duty of drafting such a Memorial to Congress was devolved on the committee on Ordinance.

Mr. BLUNT. If that be the case, I withdraw the resolution.

Mr. SLOUGH. Mr. President, I believe a report is expected this morning from the committee on Arrangement and Phraseology.

Mr. INGALLS. I might have been prepared to present a part of our report on the Miscellaneous article, but the minutes of our committee proceedings on Saturday were mislaid, and therefore I am unable to make a report at this time.

Mr. SLOUGH. Then, as there appears to be nothing for the consideration of the Convention, I move a recess till ten o'clock, to give time for the committee on Phraseology and Arrangement to prepare matter.

The motion was agreed to, and accordingly the Convention took a recess till ten o'clock.

PREAMBLE AND BILL OF RIGHTS—BOUNDARY.

The President resumed the chair at the expiration of the recess.

Mr. INGALLS, from the committee on Phraseology and Arrangement, reported back the article on the Preamble and Bill of Rights, with sundry amendments. The report follows:

"The committee on Phraseology and Arrangement having had under consideration the article entitled "Preamble and Bill of Rights," beg to submit the following

REPORT.

In the first part of the Preamble, read, "We the people of Kansas grateful to Almighty God for our civil and religious privileges, in order to ensure the full enjoyment of our rights as American citizens, do ordain and establish this Constitution of the State of Kansas with the following boundaries." In line twelve, read for "westward," "running west."

For Section 1 read "Sec. 1." In line three strike out the words "those of."

In Section 6, last line but one, for "parties" read "party."

In section 7, in line 1, strike out words "of every person"; in line three [*345] strike out words "their own"; in lines five and six strike out *and read "to attend or support any form of worship"; for "or" before "any preference" read "nor"; in lines eleven to fifteen inclusive, read as follows: "No religious test or property qualification shall be required for any office of public trust nor for any vote at any election"; for "be a witness" read "testify," and strike out all after "belief."

In Section 8, transpose and read "Unless the public safety requires it in case of invasion or rebellion."

In Section 10, line one, read: "In all prosecutions, the accused," &c.; in line twelve strike out "in a criminal cause."

In Section 11, strike out word "forever" in line five; before "actions," read "civil or criminal"; after the word "jury" read "and if it shall appear"; strike out words "is true and"; strike out "discharged or."

Section 12, for "out of" read "from" in line three; for "constitution" read "conviction"; strike out all after "estate."

Section 14, for "owner" read "occupant"; for "in a manner" read "as"; strike out "the" before "time of war."

Section 15, for "houses, papers, estates," &c. read "property"; in line five, for "one" read "on"; in last line, for "things" read "property."

Section 16, read "No person shall be imprisoned for debt except in cases of fraud." Strike out all after "fraud."

Section 17, strike out "by law"; for "resdient aliens" read "citizens and aliens"; for "possession" read "purchase."

Section 18, read: "All persons for injuries suffered in property, person or reputation, shall have remedy by due course of law, and justice administered without delay."

Section 19, strike out all after "State."

Section 20, strike out entire.

The consideration of this report was taken up.

The chairman of the committee reporting read the amendments to the first section.

Mr. WRIGLEY. Mr. President, I desire to move an amendment to the boundary of the State—carrying the western boundary back so as to include the boundary prescribed in the organic act.

The PRESIDENT. The gentleman's amendment is out of order.

Mr. HUTCHINSON. Do I understand this to be the final passage of matter?

The PRESIDENT. It is the adoption of the report of the committee.

The several amendments recommended by the committee on Phraseology and Arrangement were then considered and concurred in, by sections.

Mr. HUTCHINSON. Mr. President, we have stricken out, in the 12th section, all after the word "estate" these words: "nor shall any person be liable to be conveyed out of this State for trial in any case where the

offence was committed within the same." I would inquire whether this matter is provided for in any other part of the Constitution?

The PRESIDENT. The recollection of the Chair is, that this was stricken out because it was inconsistent—because it would be impossible to do what it prescribes.

Mr. WRIGLEY. Mr. President, I move that this article be recommitted to the committee on Phraseology and Arrangement, with instructions to change the boundary of the proposed State so as to make it conform to that in the organic act.

The PRESIDENT. The motion is not in order.

Mr. WRIGLEY. Then I move a reconsideration of the Preamble, for the purpose of changing the boundary.

The PRESIDENT. That motion is not in order for the reason that, on the adoption of that portion of the article, the gentleman from Brown moved to reconsider the vote, and then on his further motion, the motion to reconsider was laid on the table.

Mr. WRIGLEY. Is there any manner of reaching it?

[*346] *The PRESIDENT. In the opinion of the Chair, all amendment of this portion of the Article is cut off.

Mr. MCDOWELL. Mr. President, in section five of this Article the reading is as follows:

"The right of trial by jury shall be inviolate, and extend to persons of every condition; but a jury trial may be waived by the parties in all cases, in the manner prescribed by law."

My object in rising is, to make a motion to strike out these words: "and extend to persons of every condition."

The PRESIDENT. The motion is not in order.

Mr. MCDOWELL. Then I move to reconsider the vote adopting this section, for the purpose of amendment.

The PRESIDENT. That motion is in order, and will be entertained.

Mr. MCDOWELL. It seems to me, Mr. President, that that very valuable right we propose to secure to the citizen in retaining the right of trial by jury, intact, will be accomplished by the words, "The right of trial by jury shall be inviolate." I cannot see what force or sense the additional words, "and extend to persons of every condition," give to the section. I think they are mere surplusage, or they were put in to make the sense doubtful. If that be the case, a grave question might be raised by Congress in passing upon our Constitution. It might be affirmed, that this clause was intended to give the right of trial by jury to an alleged fugitive from labor owing to his master. If that construction be just, then manifestly the clause would be in contravention of a law of Congress—the fugitive slave law—and opposed to the Constitution of the United States—and to that extent, our Constitution would be itself unconstitutional. I therefore move that this section be reconsidered, in order that the Convention may strike out these words.

The PRESIDENT. The Chair desires to know whether the proposed amendment of the gentleman has not been before proposed in Convention, and voted down?

Mr. STINSON. It strikes me that the same matter was acted on only in committee of the whole.

The PRESIDENT. If it was only voted upon in committee of the whole, the amendment will be in order.

Mr. McDOWELL demanded the yeas and nays on the motion to reconsider; and they were ordered and being taken resulted—yeas 16, nays 30—as follows:

YEAS—Messrs. Barton, Foster, Forman, Greer, Hipple, Hubbard, Moore, McDowell, McCune, McClelland, Palmer, Parks, Slough, Stinson, Stiarwalt, Wrigley—16.

NAYS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Townsend, Williams, Mr. President—30.

So the committee refused to reconsider.

Mr. STINSON. Mr. President, I understand that some days ago, when this Article was up, the parliamentary dodge was applied only to the preamble, and not to the proposition of the gentleman from Douglas (Mr. Thacher) to change the boundary. I now renew my motion to reconsider the boundary, for the purpose of amending, by inserting these words:

"Provided that Congress may fix the boundaries of the State of Kansas as established by the Act of Congress organizing the Territories of Kansas and Nebraska for the Territory of Kansas."

The PRESIDENT. The Chair does not understand the distinction the gentleman makes.

Mr. STINSON. The point is this: The preamble is not the boundary. The boundary is a distinct proposition, independent of the preamble. It was the preamble—the first part as here printed—that was affected by [*347] the motion to reconsider and lay on the table. I *move to reconsider so much as was not affected by these motions.

The PRESIDENT. The Chair will be under the necessity of appealing to the journal.

Mr. KINGMAN. It was last Saturday week.

Messrs. Stinson, Blunt, Houston, and the Chair, continued the discussion of this point, depending upon recollection—the journal being out of the Hall in the hands of the copying journal clerk.

Mr. HUTCHINSON. Could not this matter be reached by unanimous consent?

The PRESIDENT. The Chair is of opinion that anything can be done by unanimous consent.

Mr. STINSON. Could not this rule be suspended by a two-third vote?

The PRESIDENT. It might for future action; but not so as to affect any action in the past.

Mr. HUTCHINSON. I was about to say, that in conversation with several members who voted for the amendment of the western boundary, as moved by the gentleman from Douglas (Mr. Thacher), I learn that, after reflection, they have come to the conclusion that they had committed a slight mistake, and they were desirous of correcting it by a reconsideration. Even Mr. Thacher himself says he made a mistake. He intended to have moved the twenty-fourth meridian west from Washington, instead of the twenty-third. And I think, under all the circumstances, that the Convention will be willing to extend the western boundary to the twenty-fourth meridian, if it can be reached again. This may be an important

question in our future, and this is perhaps the only time in which it can be reached. I therefore hope the Convention will reconsider unanimously.

The PRESIDENT. A motion to reconsider has just been put and rejected; and until some other business shall have intervened it cannot be in order to put the same motion again.

Mr. STINSON and Mr. MCDOWELL. That motion was on another section.

Mr. HUTCHINSON. I will make the motion to reconsider the vote in relation to the western boundary.

Mr. GRAHAM. I object.

The PRESIDENT. The motion then is not in order.

Mr. STINSON. Mr. President, I offer the following as an additional section to the Preamble and Bill of Rights:

"SEC. ——. Nothing herein shall prevent Congress from fixing the boundaries of the State of Kansas, as established by the Act of Congress organizing the Territories of Kansas and Nebraska for the Territory of Kansas."

Mr. BLUNT. I move that the amendment be laid upon the table, and made the special order for this afternoon at three o'clock.

The motion was rejected.

Mr. SLOUGH demanded the yeas and nays on the adoption of Mr. Stinson's amendment, and the vote stood—yeas 18, nays 27—as follows:

YEAS—Messrs. Barton, Foster, Forman, Greer, Hipple, Hubbard, Houston, Moore, McDowell, McCune, McClelland, Palmer, Parks, Porter, Slough, Stinson, Stiarwalt, Wrigley—18.

NAYS—Messrs. Arthur, Burnett, Blunt, Burris, N. C. Blood, J. Blood, Crocker, Dutton, Graham, Griffith, Hutchinson, Hanway, Hoffman, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Ritchie, Ross, Signor, Stokes, Simpson, Townsend, Williams—27.

So the amendment was rejected.

Mr. GRAHAM demanded the previous question on the adoption of this Article, as a whole, but withdrew for

Mr. HUTCHINSON, who submitted the following, as an additional section:

"It is further provided, That nothing herein contained shall prevent Congress from fixing the Western boundary on the twenty-fourth meridian west from Washington."

On motion by Mr. SLOUGH it was laid on the table.

[*348] Mr. STINSON. Mr. President, I desire to *offer the following, as section 20 of the Bill of Rights:

"SEC. 20. It is further provided, that nothing herein contained shall be construed in any way to hinder or delay the execution of the laws of the United States."

Mr. BLUNT. I move to lay it on the table.

Mr. SLOUGH demanded the yeas and nays, and the vote stood—yeas 29, nays 15—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, N. C. Blood, Crocker, Dutton, Greer, Graham, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Townsend, Williams—29.

NAYS—Messrs. Barton, Foster, Forman, Hipple, Hubbard, Moore, Mc-

Dowell, McClelland, McCune, Palmer, Parks, Slough, Stinson, Stiarwalt, Wrigley—15.

So the amendment was laid on the table.

Mr. BLUNT. I now move the adoption of the Article as a whole.

The PRESIDENT. That follows without a motion.

So the Article was adopted, and under the rule, reported to the committee on Phraseology and Arrangement for enrollment.

FREE PERSONS OF COLOR.

Mr. PARKS. Mr. President, would it be in order to move instructions to the committee on Phraseology and Arrangement to report an additional section to the article on miscellaneous matters?

The PRESIDENT. Is it in their hands for the purpose of arranging the phraseology?

Mr. PARKS. I understand that it is in their hands for revision.

Mr. SLOUGH. It has gone to the committee for arrangement and enrollment.

The PRESIDENT. The recollection of the Chair is, that the report has been finally acted on.

Mr. PARKS. Then I move to recall the report, to enable me to make a motion to reconsider, and introduce the following as a section in the article on miscellaneous:

"SEC. ——. No free negro or mulatto shall ever come into this State after the admission of the same."

Mr. HUTCHINSON. I rise to a point of order. I think precisely the same resolution, in the same words, has been voted down.

The PRESIDENT. If there is not a change in the word "nigger," the point is well taken.

Mr. WRIGLEY. Mr. President, I move to recall the miscellaneous article, to enable me to reconsider, and introduce the following:

"SEC. ——. That nothing in this Constitution contained shall be so construed as to mean that the people are to be taxed to support schools for negro or mulatto children, or that an enumeration of negro and mulatto children must be made in making a distribution of the school funds; and nothing in this Constitution contained shall be so construed as to permit negroes or mulattoes to vote at any election, or that negro or mulatto children are to be educated in the schools or universities provided for in this Constitution."

The PRESIDENT. The Chair is compelled to say, that he believes it his duty, aside from political considerations, to adhere to that well understood parliamentary rule, that the same matter which has once been disposed of by rejection, cannot be again entertained by the Convention.

Mr. MCDOWELL. My recollection does not correspond with that of the Chair. I do not think that any proposition similar to that of the gentleman from Doniphan (Mr. Wrigley) has been before the Convention.

The PRESIDENT. The Chair will state, that the language of the parliamentary law is, that where a proposition is the same in substance, if not in form, with one already disposed of, it is not in order; and the Chair recollects no point in the proposition of the gentleman from Doniphan which has not been acted on by the Convention.

ABSENCE.

[*349] On motion by Mr. KINGMAN, Col. Wright of *Nemaha, obtained leave of absence on account of sickness.

On motion by Mr. SLOUGH—to give time for the action of committees—

The Convention took a recess till 3 o'clock, P. M.

AFTERNOON SESSION.

The President resumed the Chair at three o'clock.

EXECUTIVE.

Mr. INGALLS, from the committee on Phraseology and Arrangement, submitted the following:

"The committee on Phraseology and Arrangement having had under consideration the Article on 'Executive,' respectfully submit the following

REPORT.

In Section 2, line seven, for 'President of the Senate' read 'Secretary of State.'

For Section 3, read, 'The supreme Executive power of the State shall be vested in the Governor, who shall see that the laws are faithfully executed.'

For Section 4. 'He may require information in writing from the officers in the Executive department upon any subject relating to the duties of their respective offices.'

Combine Sections 5 and 6, and read as follows:

'Section 5. He may, on extraordinary occasions, convene the Legislature by proclamation, and shall at the commencement of every general or special session communicate in writing such information as he may possess in reference to the condition of the State, and recommend such measures as he may deem expedient.'

Section 6, for 'shall have power to' read 'may'; instead of 'the regular meetings thereof' read 'the regular meeting.'

Section 7. Strike out 'such' before 'regulations'; strike out 'as may be.'

Section 8. Before 'shall' in third line, read 'which'; strike out 'called' and also the quotation marks.

Section 9. Strike out 'grants and'; strike out 'and by the authority'; transpose so as to read 'signed by the Governor, countersigned by the Secretary of State, and sealed with the Great Seal.'

Section 10. After 'Congress' read 'or officer of the State or of the United States shall hold the office of Governor except as herein provided.'

Section 11. Strike out the clause 'or until he shall be acquitted,' and read 'until the disability shall be removed.'

Section 12. In second line change 'but' to 'and'; in line four after 'divided' read as follows: 'The Senate shall choose a President *pro tempore* to preside in cases of his absence, impeachment, or when he shall hold the office of Governor.'

Section 13. Line two, for 'executing' read 'holding.'

Section 14. Transpose and change to read as follows: 'Should either the Secretary of State, Auditor, Treasurer, Attorney-general or Superintendent of Public Instruction become incapable of performing the duties of his office for any of the causes specified in the thirteenth section of this Article, the Governor shall fill the vacancy until the disability is removed

or a successor is elected and qualified. Every such vacancy shall be filled,' &c.

Section 16. For 'the' before 'public' in line two, read 'all'; for 'five' read 'ten'; in last line but one strike out the words 'with his message.'

INGALLS, *Chairman.*"

And the several recommendations reported, having been separately concurred in by the Convention, the Executive Article was adopted, as a whole, and referred again to the committee on Phraseology and Arrangement for arrangement and enrollment.

SKULLDUGGERY.

Mr. PARKS. Mr. President, the special committee on the alleged corruption in connection with the temporary location of the seat of gov- [*350] ernment, have instructed me to report the *following testimony, without recommendation to the Convention. I will read it myself, with the permission of the Convention:

(This testimony was subsequently ordered to be placed in the files of the Convention, which the Secretary construes as inhibiting its publication.)

Mr. HUBBARD. Mr. President, I rise to a question of privilege. I learn from the report just read from the committee on the investigation of frauds, that there is no person criminated, nor the veracity of any called in question, except Mr. Hutchinson and myself. Since that committee has been in session, I have been requested by Mr. Hutchinson, to withhold saying anything to the Convention till the committee should report. I have done so. And then, he added, he would give me satisfaction in regard to the whole matter. It is well known to the Convention how we stand in regard to this matter. He has testified upon oath, that he did not offer me a lot in the town of Lawrence, and upon my oath, I have testified, that he did. Now, the question with me is, whether the gentleman will give me satisfaction before I proceed?

The PRESIDENT. The Chair is not quite clear, that this is a proper mode of proceeding. The gentleman rose to a personal explanation. But the tendency of his remarks seems to be, to make it a personal matter between two members of the Convention, in a way that would hardly be compatible with the rules of order. It seems to the Chair, that the gentleman is claiming something more than a mere statement of matter of explanation. It is contrary to the precedents for a gentleman to rise and demand satisfaction in connection with a personal explanation.

Mr. SLOUGH. I think the Chair, perhaps, misunderstands the gentleman. Mr. Hutchinson asked him to withhold saying anything till after the report was made, and he would give him, Mr. Hubbard, satisfaction. I gather from that, that he might withdraw, or make explanatory statements. It seems to me that it might be legitimate and proper to wait and see.

The PRESIDENT. The Chair does not understand that any person is upon trial before the Convention. The report of the committee has been submitted without recommendation. And so long as no person is upon trial, it seems to him out of order for this thing to be permitted to be conducted in this way. The gentleman from Doniphan (Mr. Hubbard) has made his explanation; and that anything further than a simple explanation was to be made, the Chair did not understand. If the Convention were proposing to impeach a member, then the question would take a different shape.

Mr. HUBBARD. Mr. President, as the gentleman has given no reply, I would like to call upon him to know whether he still makes that proposition to me?

The PRESIDENT. The Chair does not understand that the gentleman from Doniphan has a right to call upon the gentleman from Douglas, as though he stood before the Convention on his trial. The gentleman from Doniphan should confine himself to his matter of personal explanation, and make his address and statements to the Chair. Anything more now would be a violation of the rules of the Convention.

Mr. HUBBARD. Mr. President, as I have stated, the Convention has heard the testimony given by all the witnesses in regard to this matter, and it comes up in this shape, that either I or he has sworn to a lie—such a thing, Mr. President, as has never been said of me in my whole history—and I am satisfied that there is sufficient corroborating testimony in the House to satisfy the Convention that I have stated just the truth in this case, and nothing more. I also think the Convention will bear me out in the statement when I say I was not after making political capital. I have been one of the silent members of this body. I have listened with [*351] consideration and interest to the speeches of others, because I *am not experienced in parliamentary matters, and I have voted upon all questions as my judgment has directed me. It would certainly have been an idea very foreign to me, to have gone round unsolicited to the other side of the hall and taken my seat by the side of the gentleman from Douglas, to hear a corrupt proposition. Mr. President, it was the first time a bribe was ever offered to me, and I hope it will be the last. He offered me a good lot if I would vote for Lawrence. And then he said the title should be good; and he would make the same offer to any other Democratic member of the Convention. I say, sir, he has sworn to a lie———

The PRESIDENT (interposing with his hammer). The gentleman is not in order. The Chair cannot permit this course of personal criminations.

Mr. INGALLS. Mr. President, I move that the report of special investigating committee be placed in the files of the Convention.

Mr. SLOUGH. Mr. President, it seems to me that something more ought to be done than the mere filing of this report. I'll make a motion.

The PRESIDENT. The gentleman will reduce his motion to writing and send it to the Secretary.

Mr. STINSON. I would move a substitute for the motion just offered, and that is—as this is a matter of grave importance to the two gentlemen whose character is involved, I move that they both be brought to the bar and examined before the Convention.

The PRESIDENT. The gentleman will reduce his motion to writing.

Mr. INGALLS. Mr. President, I insist on the original motion being put, and I wish also to add, that the committee be discharged.

The motion was agreed to.

Mr. MCDOWELL. I suppose, Mr. President, it will not be out of order to make a single remark upon the testimony read in the hearing of the Convention by the chairman of the committee?

The PRESIDENT. There is no motion; but the two gentlemen from Leavenworth are preparing matter for consideration. The gentleman cannot proceed, except by general consent.

Mr. STINSON submitted the following:

"Ordered, that Wm. B. Hutchinson, from Douglas county, and Wm.

Hubbard, from Doniphan county, be brought to the bar of the House, and examined relative to the charge made by said Hubbard against said Hutchinson, of an offer on the part of said Hutchinson to bribe said Hubbard to vote for Lawrence as the temporary capital of the State of Kansas."

Mr. KINGMAN. Mr. President, I do not know that I ever felt more embarrassment in my life than I feel at the present moment. Unlike the case of many whom I meet here as delegate meets delegate, my acquaintance with these two men commenced some time before we met here. I have known them both as men of character and veracity. And it is now clear to my mind that there is some point of misunderstanding between them, which no explanation of theirs can relieve here at this time. I know certainly, that no recapitulation of the testimony can change my opinion, and supposing it to be the same with others, I think we cannot get rid of it better than by laying the whole matter on the table, and letting it rest there. There is, manifestly, a misunderstanding somewhere.

Mr. STINSON demanded the yeas and nays on this motion, and the vote stood—yeas 24, nays 19—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Hanway, Houston, Ingalls, Kingman, Lamb, Middleton, McClelland, McCullough, Preston, Palmer, Ross, Signor, Stokes, Simpson, Townsend, Williams—24.

NAYS—Messrs. Barton, Foster, Graham, Greer, Hipple, Hubbard, [*352] Hutchinson, Hoffman, Lillie, Moore, McDowell, McCune, *Parks, Porter, Ritchie, Slough, Stinson, Stiarwalt, Wrigley—19.

Mr. ARTHUR, when his name was called, said he hardly knew enough of the case to authorize a vote, but, believing this disposition of the case would be the readiest way to compromise and settle it, and being anxious to get rid of the subject and complete the work of the Convention, he voted aye.

Mr. GRIFFITH was excused.

So the whole subject was laid on the table.

Mr. SLOUGH submitted the following:

Resolved, That William Hutchinson, a member of this Convention, for an attempt to bribe a fellow-member, be expelled therefrom.

The PRESIDENT. The resolution is not in order—this whole subject having been just laid on the table.

Mr. SLOUGH. I appeal from that decision.

The PRESIDENT. The question is, Shall the decision of the Chair stand as the judgment of the House?

Mr. SLOUGH. The Chair is right in deciding that all matters embodied in the resolution for raising the committee of investigation were laid on the table. The whole subject, so far as that resolution is concerned, has been disposed of. But I hold that there is new matter in the resolution I have just offered and I therefore appeal.

The PRESIDENT. The gentleman from Brown distinctly stated the reason for laying on the table—to prevent embarrassment and delay in the time of the Convention.

Mr. SLOUGH demanded the yeas and nays on the appeal, and they were ordered and taken, resulting—yeas 27, nays 14—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hanway, Houston, Ingalls, Kingman,

Lillie, Lamb, Middleton, McCullough, Preston, Palmer, Ritchie, Ross, Signor, Stokes, Simpson, Townsend, Williams—27.

NAYS—Messrs. Barton, Foster, Greer, Hipple, Moore, McDowell, McCune, McClelland, Parks, Porter, Slough, Stinson, Stiarwalt, Wrigley—14.

Mr. GRAHAM, when his name was called, said: my reason for not voting is, that I do not see the point clearly. If I have understood the question, the resolution of the gentleman from Leavenworth certainly was not embraced in the motion to lay on the table.

The PRESIDENT. The motion was to lay the resolution and the whole subject on the table.

Mr. GRAHAM. I have a doubt on the subject. If the motion of the gentleman from Brown covered the whole, I sustain the Chair.

Mr. KINGMAN (by unanimous consent). I should not be able, Mr. President, to recall the exact phraseology, nor was I particular about that. The object was to get clear of the whole matter. The motion was made for that object, and intended to cover the whole. That was the sole object.

Mr. GRAHAM. I vote aye.

So the decision of the Chair was sustained.

Mr. MCDOWELL. Mr. President, I rise to a question of privilege. In the testimony reported to this House by the chairman of the committee of investigation, there was included testimony delivered by the President of this Convention. That testimony was to the effect that some third party had told the President of this Convention that if he would vote for the acquisition of Southern Nebraska, he could get a section of land of such and such value, and some other considerations. The President of this Convention stated in his testimony that he heard this from one *Chestnut*, and that Chestnut did not state exactly, but left the impression that this offer proceeded from the Democratic delegation in this Convention, or from some Democrat connected with the Convention. Now, I rise, sir, to declare, as one of the Democratic members of this Convention, that such an offer never came from me; that I never had any knowledge of it; that I do not believe it was ever made; and further, that I do believe the allegation was false, in whole and in part; that it was a simple re-
[*353] flection, that would not have been *received in a court of justice, because it is hearsay testimony—

The PRESIDENT (interrupting). The Chair is under the necessity of saying that the remarks of the gentleman do not properly come within the scope of a question of privilege. No allegation against the character of the gentleman alluded to in the premises, and no such statement is needed.

Mr. STINSON. Mr. President, I rise to a question of privilege—something different from that of my colleague.

The PRESIDENT. Unless the gentleman rises to a question affecting himself, he cannot be in order.

Mr. STINSON. I do. I rise to explain a charge—or what perhaps may be considered as a charge against me. In the testimony reported this afternoon, it is stated that I have acknowledged that I offered certain inducements to gentlemen to vote for a favorite measure of mine and of the Democratic party here. I now rise to say that I have not denied it, and I do not deny it, and also, to say that any man who says or insinuates that my object in that offer was corrupt and unworthy of a member of this body, says that which is false.

The PRESIDENT (interrupting). Nobody has charged anything against the gentleman from Leavenworth.

Mr. STINSON. It was said that political considerations were as much a bribe as "corner lots." I move a recess for an hour.

Mr. PARKS. I move that the Convention adjourn.

Mr. ROSS. There will be other reports in, in a very short time.

On a division the vote stood—affirmative, 22; negative, 14.

So the Convention adjourned till to-morrow morning, 8 o'clock.

TUESDAY, July 26, 1859.

The Convention met at 8 o'clock, P. M.

Prayer by the Chaplain.

The absentees on the roll-call were Messrs. Blunt, Brown, Burris, Forman, Griffith, Hipple, Hutchinson, Hoffman, Houston, Lamb, May, McDowell, Perry, Parks, Porter, Slough, Stinson, Simpson, Thacher, J. Wright, Wrigley, and T. S. Wright.

The journal of yesterday was read and authenticated.

FINANCE AND TAXATION.

Mr. INGALLS, from the Committee on Phraseology and Arrangement, submitted the following report:

The Committee on Phraseology and Arrangement having had under consideration the article entitled Finance and Taxation, respectfully submit the following report:

Section 1, line 2, strike out "by law," and strike out all after "taxation" to the semicolon. Strike out "appropriate" and insert "at least" before "two hundred." Strike out "head of a" before "family."

Section 2, strike out "by law."

Section 3, transfer "each year," and insert "provide" in the first line.

Amend section 4, and read: "No tax shall be levied except in pursuance of a law, which shall distinctly state the object," &c.

Section 5, line 15, after "payment" transpose and read: "Payment of the principle thereof when it shall become due."

Section 6, line 2, strike out "elsewhere." Line 4, strike out "this" before "State," and insert "the." Before the words "proposed law" in lines 6 and 10, change "said" to "such."

INGALLS, *Chairman.*

On motion by Mr. DUTTON, this report was taken up and considered by sections.

The several amendments and modifications reported were concurred in, and so the article, as a whole was adopted without further amendment, and referred again to the same committee for arrangement and endorsement [enrollment].

[*354] *Mr. TOWNSEND moved a recess of one hour, to await further reports from the Committee on Phraseology and Arrangement.

And accordingly the Convention took a recess.

The President resumed the chair at the close of the term of this recess.

LEGISLATIVE DEPARTMENT.

Mr. INGALLS. Mr. President, in behalf of the Committee on Phraseology and Arrangement, who have had under consideration the article on the Legislative Department, I submit the following report:

Section 1. Read "the State" for "this State."

Section 2. Change numerals "75" to words. In the 4th and 6th lines, strike out "under this Constitution." In line 1, after "House," insert "of Representatives."

Section 3, in 13th and 15th lines, strike out "as per diem allowance."

Section 4. Read "No person shall be a member of the Legislature who is not," &c.

Section 5. Read "No member of Congress or officer of the United States shall be," &c. In line 4, read "If any person after his election to the Legislature shall be," &c.

Section 6. Strike out "hereafter," in the first line. Read "an" instead of "on."

Section 7, line 1, read "All State officers." In line 2, strike out "the duties of." In 3d line, strike out "offices," and insert "duties." Insert "and" before "the Constitution" in line 5. In last line but one strike out all after "offices."

Sec. 8. In line 2, strike out "so do business." Read, "Each House shall establish its own rules and shall be the judge," &c. Strike out all after "members."

Sec. 9. For "which may occur" read "occurring." Strike out all after "election."

Sec. 10. Strike out all after the word "resolution" in the 5th line to the period.

Sec. 11, line 3, strike out the word "thereof" after "resolution."

Sec. 12. For "to" read "by."

Sec. 13. Strike out all after the word "resolution" in line 4.

Sec. 14. Read, "Every bill and joint resolution passed by the House of Representatives and Senate, shall, within two days thereafter, be signed by the presiding officers and presented to the Governor; if he approve, he shall sign it; but if not, he shall," &c. In the 7th line, change "who" to "which." In the 9th line, for "bill" read "same." For "but in all cases" read "but in all such cases." Enclose "Sundays excepted" in parentheses. Strike out "the same" after "Governor," and read "it." Read "become a law," for "be a law," in the last line, and last line but four from close to section. In 11th line insert "or resolution," after "bill."

Sec. 18. The committee recommended the reference of this section to the Committee on Miscellaneous and on Corporations and Banks and Currency—to strike out entire, and read:

"SEC. 18. All power to grant divorces is vested in the District Courts, subject to regulations by law."

SEC. 19. For "enforced" in two places, read "in force."

SEC. 22. Insert dashes after "arrest" and " peace."

SEC. 25. Strike out "18th," and insert "record."

Sec. 28. Strike out "or" before "honor." Strike out "and," and insert "but."

INGALLS, *Chairman.*

On motion it was ordered that this report be now considered by sections.

The amendments and modifications reported were severally agreed to, and the question being on the adoption of the article as a whole—

Mr. HUTCHINSON. Mr. President, I know that these are merely verbal amendments, but in the 13th section the last half is stricken out. I suppose this is provided for somewhere else.

The PRESIDENT. It is provided for in the 14th section.

Mr. GREER. Mr. President, I move a reconsideration of the 3d section

[*355] of the article, for the *purpose of making a reduction in the number of the Representatives and Senators; and I call for the yeas and nays on the question.

The motion was rejected—affirmative 15, negative 15.

A voice. The yeas and nays were demanded.

The PRESIDENT. The yeas and nays were not demanded in the hearing of the Chair.

The article was then adopted and passed as a whole, and under the rule, it was ordered to be referred again to the Committee on Phraseology and Arrangement, for arrangement and enrollment.

PRIVILEGE.

Mr. BARTON submitted the following:

"*Resolved*, That the courtesies of the Convention be extended to the Honorable E. S. Townsend and Judge Means, and that they be invited to seats within the bar."

Mr. GREER proposed to insert the name of Gen. Strickler.

Which was agreed to, and so the resolution was adopted.

THE JUDICIARY.

Mr. KINGMAN. Mr. President, it seems to me that some time last week the Committee on Phraseology and Arrangement passed upon the Judiciary report. I would like to know its condition?

Mr. INGALLS. That report is still in the hands of the Chairman. It will be ready for submission to the Convention in the course of the forenoon.

The PRESIDENT. What is the further pleasure of the Convention?

Mr. HUTCHINSON. Mr. President, as the Committee of Ordinance have business before them, I move an adjournment till 11 o'clock.

The motion was rejected.

The Convention then took a recess till 11 o'clock, A. M.

THE JUDICIARY.

The President resumed the Chair at 11 o'clock.

Mr. INGALLS. Mr. President, in behalf of the Committee on Phraseology and Arrangement, which had the article on the Judiciary under consideration, I submit the following report:

"Section 1. After 'District Courts' read 'Probate Courts.' After 'inferior,' for 'of' read 'to.'

Sec. 2. Transpose and read: "The Supreme Court shall consist of one chief justice, and two associate justices, who shall be elected by the electors of the State at large, and a majority of whom shall constitute a quorum. And at the first election under this Constitution,' &c. After 'two years' put a semicolon.

Sec. 3. Before 'habeas corpus' read 'and.' In the 5th line strike out 'in' after 'term.'

Condense sections 4 and 5 to read as follows:

'Sec. 4. There shall be appointed by the justices of the Supreme Court a reporter and clerk of said Court, who shall hold their offices two years, and whose duties shall be prescribed by law.'

Sec. 6. After the words 'four years,' read: 'District Courts shall be held at such times and places as may be prescribed by law.'

Sec. 8. For 'one clerk,' read 'a clerk.' Strike out 'for' before 'two.' Strike out 'such as,' in the last line but one.

Sec. 9. Strike out 'for' before two years. For last clause read: 'He shall be his own clerk, shall hold Courts at such times, and receive for compensation such fees as may be prescribed by law.'

Sec. 10. Strike out 'as may be presented.'

Sec. 13. Strike out 'according to law.'

Sec. 14, line 9. Strike out 'hereof,' after 'pledge,' and before 'Judges,' in same line read 'Justices or.'

Sec. 15, line 4. Strike out 'therein.'

Sec. 16. Strike out 'concurrent,' before 'resolution.' Strike out 'therein' after 'concur.' Strike out 'thereof,' in the last line.

Sec. 18. Strike out 'by authority,' and strike out in the last line the words, 'of Kansas.'

Sec. 21. Strike out 'thereof' in the last line but one, after 'Judge.'

INGALLS, *Chairman.*"

[*356] *The report lies on the table.

PERSONAL EXPLANATION.

Mr. MCDOWELL. Mr. President, I rise to make a strictly personal explanation. On yesterday I rose to a question of privilege, and in referring to certain testimony by the President of this Convention, I am understood by my colleague who sits beside me (Mr. Parks) as having expressed myself in such a way as to reflect invidiously upon the statements of the President. Now I wish to say that I intended no such thing. I think, in justice both to the Chair and myself, perhaps, I should make this statement. I simply referred to a rumor that the President swore came through a third person to him—that that rumor was untrue. I certainly did not intend to impeach the testimony of the President of this Convention.

The PRESIDENT. The language of the gentleman might have been possibly understood as somewhat reflecting upon my statements; but they were not so understood by me.

ACCOUNT OF STATIONERY, &C.

Mr. N. C. BLOOD, from the Committee on Accounts, submitted a report on the bill of the Sergeant-at-Arms, which lies on the table.

(It is a bill of items—stationery, &c., for the Convention.)

MR. HUBBARD'S PROTEST.

Mr. HUBBARD. Mr. President, I submit the following, and ask that it be spread upon the journal:

(This protest has not been received by the printer.)

The PRESIDENT. Under the rules of the Convention, the protest lies on the table till to-morrow.

THE JUDICIARY.

On motion by Mr. KINGMAN, the Convention proceeded to the consideration of the Phraseology Committee's report on the Judiciary article. (It is printed in the proceedings of this morning.)

The several modifications having been concurred in—

Mr. STINSON. Mr. President, in the 4th line from the bottom of section 2, the word 'six' should be stricken out, and the word 'two' inserted.

Mr. KINGMAN. That section is not right yet. It does not provide for the election of a chief justice after the first term. I move that the section be referred back to the committee.

Mr. MCDOWELL. I think the 9th section should provide a seal for the probate judge. I move the recommitment of that section also.

The 2d and 9th sections are as follows:

"SECTION 2. The supreme court shall consist of one chief justice, and two associate justices, the majority of whom shall constitute a quorum, who shall be elected by the electors of the State at large, and at the first election under this Constitution, there shall be chosen a chief justice for the term of six years, one associate justice for the term of four years, and one for the term of two years, and every six years thereafter, except when a chief justice is to be elected, an associate justice shall be elected for six years.

SECTION 9. There shall be a probate court in each county, which shall be a court of record, and have such probate jurisdiction and care of estates of deceased persons, minors, and persons of unsound minds, as may be prescribed by law; and shall have jurisdiction over cases of *habeas corpus*. This court shall consist of one judge, who shall be elected by qualified voters of the county and hold his office for two years. He shall be his own clerk, and shall hold courts as often as may be prescribed by law. The compensation of such judge shall be such fees as may be prescribed by law."

The amendment was agreed to, and then the motion prevailed, and the sections were accordingly recommitted.

The remainder of the article was laid on the table.

[*357] *APPORTIONMENT.

Mr. PRESTON, for the Committee on Apportionment, submitted the following report:

"SECTION 1. In the permanent apportionment of the State, each organized county shall have at least one Representative; and each county shall be divided into as many Districts as it has Representatives.

SEC. 2. It shall be the duty of the first Legislature to make a permanent apportionment, based upon the census ordered by the last Legislative Assembly of the Territory; and a new Apportionment shall be made in the year 1866, and every five years thereafter, based upon the census of the preceding year.

SEC. 3. Until there shall be a new apportionment, the State shall be divided into Senatorial and Representative districts and the members thereof shall be apportioned among the several districts as follows, viz:

			Rep.	*Sen.*
1st	Dist.	Doniphan	4	2
2d	"	Atchison and Brown	6	2
3d	"	Nemaha, Marshall and Washington	2	1
4th	"	Clay, Riley and Pottowatomie	4	1
5th	"	Dickinson, Davis and Waubonsee	3	1
6th	"	Shawnee, Jackson and Jefferson	8	2
7th	"	Leavenworth	9	3
8th	"	Douglas, Johnson and Wyandot	13	4
9th	"	Lykins, Linn and Bourbon	9	3
10th	"	Allen, Anderson, and Franklin	6	2
11th	"	Woodson and Madison	2	1

			Rep.	Sen.
12th	Dist.	Coffey, Osage and Breckenridge.....	6	2
13th	"	Morris, Chase and Butler.....	2	
14th	"	Arapahoe, Godfrey, Greenwood, Hunter, Wilson, Dorn and McGee..		1

Mr. McDOWELL. I ask leave to submit a minority report from the same committee, which by the indulgence of the Convention, I will read:

"We whose names are hereto attached being a minority of the Committee on Apportionment and unable to agree to the majority report, because we regard it as both partisan and unjust, beg leave to present the following report:

First; we regard population as the only correct basis of an apportionment, and therefore, without having before us an estimate or census of the population we cannot agree with the majority of the committee in making acres and square miles a basis. That report nominally gives to each county a representative, and yet by attaching Democratic counties with some overwhelming Republican county they give, as in the case of Douglas, Wyandotte and Johnson an aggregate representation, that enables the Republican county to *select* and *elect* all the representatives, thus practically ignoring the rules adopted of giving each organized county a representative.

Second; the census not being before us the committee determined that the present voting population of each county, as given in by the representatives of the respective counties and districts, should be the basis, thus giving the power to enlarged consciences [constituencies] to secure a representation that might come up to the standard of political necessities.

Third; still insisting upon population as the true basis of representation; and still satisfied that square miles should not be the basis of an apportionment, we yet submit upon the basis adopted by the Convention, giving to each organized county a representative, the following apportionment as much more just and fair than the one presented by a majority of the committee:

	Rep.
Doniphan	6
Brown	1
Nemaha	1
Marshall & Washington	1
Riley & Clay	1
Pottawatomie	1
Jackson	1
Jefferson	3
Atchison	5
Leavenworth	11
Wyandotte	2
[*358] *Johnson	3
Douglas	7
Shawnee	4
Waubonsa	1
Davis	1
Dickinson & Arapahoe	1
Morris	1
Case, Butler and Hunter	1
Breckenridge	2
Osage	1
Franklin	1
Lykins	3
Linn	3
Anderson	1
Madison	1
Coffey	3
Bourbon	3
Allen	2
Woodson	1
Greenwood, Dorn, Wilson, Godfrey, and McGee	1

	Sen.
Doniphan	1
Doniphan & Brown	1
Marshall, Washington, Riley & Clay	1
Jackson, Nemaha & Pottawatomie	1
Jefferson	1
Atchison	1

	Sen.		Sen.
Leavenworth	3	Lykins	1
Wyandotte	1	Linn	1
Johnson	1	Madison, Hunter, Godfrey & Greenwood	1
Douglas	2	Coffey	1
Shawnee and Waubonsa	1	Bourbon & McGee	1
Dickinson and Arapahoe	1	Allen, Woodson, Wilson & Dorn,	1
Breckenridge and Osage	1		
Franklin and Anderson	1		

Respectfully submitted,

W. C. McDOWELL,
EPH. MOORE,
J. M. STIARWALT."

These reports lie on the table.

Mr. SLOUGH submitted the following:

"WHEREAS, William Hutchinson, a member of this Convention, is charged by another member with perjury, in falsely swearing before a committee raised to investigate charges of bribery, therefore,

Resolved, That a committee of five be appointed for the purpose [of] investigating such charge, with power to send for persons and papers, and with instructions to make their [report] this afternoon."

Mr. SLOUGH demanded the yeas and nays on the adoption of this resolution, and the House sustaining the call, the vote was taken resulting—yeas 23, nays 14, as follows:

YEAS—Messrs. Barton, Burris, Crocker, Dutton, Foster, Graham, Greer, Griffith, Hanway, Hoffman, Lillie, Moore, McDowell, McCune, McClelland, Palmer, Parks, Ritchie, Slough, Stinson, Stiarwalt, Simpson, Williams—23.

NAYS—Messrs. Arthur, Burnett, Blunt, J. Blood, N. C. Blood, Houston, Ingalls, Middleton, McCullough, Preston, Ross, Signor, Stokes, Townsend —14.

So the resolution was adopted, and thereupon the President announced the following committee:

Messrs. Slough, Graham, Jas. Blood, Lillie and McCune.

APPORTIONMENT OF REPRESENTATION.

On motion by Mr. McDOWELL, the Convention took up the consideration of the report of the Committee on Apportionment.

Mr. GRAHAM. Mr. President, I move its adoption.

Mr. McDOWELL. I desire to make a motion to go into the Committee of Whole on the majority report.

The latter was rejected—affirmative 13, negative 18—and the question recurred.

Mr. McDOWELL. I hope, sir, that the Convention will not adopt the majority report. In the first place, the Convention instructed this committee to adopt as a basis for an apportionment the rule that each organized county in the State should have a representative. The Committee on Apportionment was instructed to act by that rule. In the report they have submitted, I claim, in the first place, that they have not confined themselves to the instructions of the Convention—they have not given to each organized county in the Territory one representative. Seemingly they have done so—but in fact, they have not. I see, for instance, that to Atchison and Brown counties are given six representatives. It is well

known, that the population of Atchison is much more numerous than the population of Brown, and the consequence will be, that the people in Atchison will be able, in all their Conventions, to select all their six candidates for representatives, and elect them. But there is yet a more striking instance of their disregard of the instructions of the Convention than this. By this majority report the counties of Douglas, Johnson and Wyandotte are to have thirteen representatives. Now, it is well known that the political complexion of Wyandotte county is Democratic. It is believed [*359] that the political complexion of John*son county is Democratic. But the political complexion of Douglas county is overwhelmingly Republican. Thus this entire representation is practically given to Douglas county. Douglas county may nominate and elect the whole thirteen, in spite of Wyandotte and Johnson. Then, if the Convention means to be true to itself, it cannot adopt the majority report. The original report of this committee gave to Douglas county seven, to Wyandotte two, and Johnson three—making twelve. Douglas county, in that report, had something like a fair representation of her present voting population. But this report practically increases the number of representatives for Douglas from seven to thirteen, and practically disfranchises the two smaller counties of Johnson and Wyandotte. And so it is throughout the whole scheme. I undertake to say that this report is a scheme gotten up for political purposes, to prevent the Democratic party from having the control, by any possibility, in the Legislature. In the first place, this report selects not the population of the Territory [as] a basis; but starts out with the rule that would give to each county one representative, and then they seem to have acted upon the rule to so gerrymander as to disfranchise all the Democratic counties except two—Doniphan and Leavenworth, in order to secure an overwhelming Republican majority in the Legislature. I hope this will not be adopted, because it is unjust and unfair—because the committee have not proceeded upon any just basis. I think the Convention ought to act fairly by the minority. I undertake to say that Democratic voters and Democratic counties ought to be respected in this matter; and I for one shall enter my hearty protest against their disfranchisement. I know there has been no census reported here. I am willing to admit that difficulty at the threshold. I know that we can only approximate to fairness and justice by taking the statements of gentlemen here as to the voting population. The only just basis is population. The only just way of proceeding is [to] ascertain the population; determine that such a ratio shall be entitled to a representative, and then [it] is nothing but a mere matter of arithmetic. I know that we cannot get at the truth exactly, but we can get an estimate of population as exact—perhaps more exact than the vote. But in the absence of anything better, why not take the proclamation of the Governor, containing the list of all the votes cast for members of this Constitutional Convention. Take that and adopt any rule of distinction except that adopted by this committee, and some sort of justice will be done to the Democratic portion of the people.

Mr. GRAHAM. This question, sir, has to my mind taken a very strange position. Look at the history of the matter in this body. My recollection of the proceedings is this: this body, upon a resolution offered by myself, instructed the committee on apportionment to apportion the Territory for members of the Legislature—the House and Senate—so as to give at least one member of the House to each organized county in the State upon coming into the Union. Carrying out that instruction of this House, the com-

mittee went on in good faith to apportion the Territory for Representatives and Senators—giving to each organized county at least one member. And, sir, when the report was introduced here, what was the result? We were met here by the assertion of the gentleman from Leavenworth (Col. Slough) that our report was unfair and unjust. And that gentleman moved a resolution with an order to refer the report back again, with instructions that the committee should make an apportionment upon population, and not upon counties. That is the history of the proceedings thus far. Well, the committee met again, and I there proposed that this body should elect a board of commissioners, who should go on and make the [*360] apportionment for members of the Legis*lature, and the gentleman from Leavenworth who has just taken his seat opposed it, tooth and toe-nail. Now, sir, what were we to do? We have, in accordance with instructions, gone on and made an apportionment upon the basis of population. What are the facts? The counties of Atchison and Brown were attached together for what purpose? For an honest purpose—that large fractions of the ratio of voters might not be disfranchised on the floor of the Legislature under this Constitution. We found, when we came to make the calculations for apportionment, that Brown county had six hundred voters—not enough to entitle her to two members, but a large fraction over one—nearly entitling her to two. And she had not population enough for one Senator. Atchison had a population entitling her to five representatives, and Brown was entitled to one and over. Atchison was entitled to one Senator, but had not population enough for two; but, attaching Brown, there was made a just and honest apportionment of six representatives and two senators. So that, by attaching these two counties, we have carried out in good faith the instructions for a representation upon population. Then for gentlemen to come in here and brand that as a fraud which we have done under express instructions of the body, I say it is inconsistent and uncalled for, and done for buncombe. We have left them alone in all their glory in Leavenworth and Doniphan. (Laughter.) I hope the Convention will come up to the work and adopt this report, for it is a just and fair report—it presents the only basis upon which there can be any tolerable approach to a fair representation in the first Legislature.

Mr. STINSON. Mr. President, I think this committee on apportionment has made the most unfair report that has ever been submitted with reference to the interests of the people of Kansas. Under ordinary circumstances I would not think of accusing my friend from Atchison with the perpetration of a jest; but it does seem to me here that they attempted a good thing for a laugh. They made one report before this, and some laughed at it and others were offended, and it was kicked out. Now they have made another, which is still a better joke. In the same vein of humor in which this report seems to have been gotten up, I shall propose something like the following amendment, by way of substitute:

"WHEREAS, the majority of this Convention are deeply impressed with the necessity of securing a majority in the Legislature of Kansas; and whereas, the 'signs of the times' indicate that the people are unwilling to assist us in accomplishing this laudable object; and whereas, the time has arrived when every species of political skullduggery must be resorted to, in order to secure the State against the Democracy; therefore, be it

Resolved, That, for the purpose of neutralizing the Democratic vote of Wyandotte and Johnson counties, the staunch Republican county of Douglas be annexed thereto.

Resolved, That, for the purpose of neutralizing the Democratic majorities of Jackson and Jefferson counties, the Republican county of Shawnee be annexed thereto.

Resolved, That a similar regard for the interests of the Republican party and disregard for the interests of the people, be followed throughout this apportionment."

Now, sir, I think the good sense of this Convention will bear me out in the assertion, that such would be a just preamble and setting forth of such an apportionment. I believe it must have been reported in jest, and so I trust it may be received; for it seems to me that, to say the Convention can be seriously desirous of inflicting such an apportionment upon the people, is to insult the honesty and good sense of the body. I have examined it to see if there had been any just rule followed—any natural connection of interests, but I have found it to be simply an apportionment for the purpose of subserving the interests of party, and no man who [*361] looks at it, not *as a partisan, can perceive in it any other purpose—if it be not taken as a piece of broad humor. But my worthy friend says: "We have left you your strongholds—Leavenworth and Doniphan." Aye, sir, they left them because they dare not touch them. The committee knew that they might tack on any county in the Territory and we would give them Democratic representatives from these districts. Sir, the idea is ridiculous that the Convention should seriously entertain this majority report, and I move to lay it on the table.

Mr. SLOUGH demanded the yeas and nays, and the same being seconded, ordered and taken, resulted—yeas 14, nays 27—as follows:

YEAS—Messrs. Barton, Foster, Forman, Greer, Hubbard, Moore, McDowell, McCune, McClelland, Parks, Ross, Slough, Stinson, Stiarwalt—14.

NAYS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Palmer, Ritchie, Signor, Stokes, Simpson, Townsend, Williams—27.

So the Convention refused to lay on the table, and the question recurred on adoption.

Mr. J. BLOOD demanded the previous question, and there was a second.

Mr. SLOUGH demanded the yeas and nays, and they were ordered, and being taken on the main question, to-wit: "Shall the main question be now put?"—the result was—yeas 26, nays 15—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Ritchie, Signor, Stokes, Simpson, Townsend, Williams—26.

NAYS—Messrs. Barton, Foster, Forman, Greer, Hubbard, Moore, McDowell, McCune, McClelland, Palmer, Parks, Ross, Slough, Stinson, Stiarwalt—15.

So the main question, viz: Shall the report be adopted? was ordered.

Hereupon followed a call of the House, demanded by Mr. Stinson, which discovered forty-two members present.

Mr. SLOUGH raised a question of order, upon which he alleged that a motion to lay an amendment on the table, if successful, carried the original with it. The Chair holding that the parliamentary rule also justified the question or the amendment alone. But, in the foregoing, the Chair in-

sisted that both motions were subsidiary, and that there was no main question upon which an amendment could have been applied.

Mr. SLOUGH appealed from the dicision, and demanded the yeas and nays, and they were ordered.

Mr. Ross. Mr. President, I wish to be excused from voting on this question. It is but an effort to stave off the final vote upon the report of the committee. I perceive that the report is to be put through under the party lash, and further resistance would be useless. Much as I regret to differ with my political friends, I must denounce this measure as unfair and unworthy of the support of Republicans. I am ready for the vote upon the main question. If gentlemen wish to throttle the Republican party of Kansas and damn themselves, let them urge this measure; but I will not be a party to the scheme.

Mr. Ross was excused.

Mr. ARTHUR was also excused from voting.

The vote on the appeal was then taken and reported—yeas 25, noes 13—so the decision of the Chair was sustained as the judgment of the House.

Mr. STINSON. Mr. President, the hour of adjournment (12 o'clock, m.) has arrived.

The PRESIDENT. The ruling and precedents are, never to adjourn while a question is pending. We are still under the force of the previous question. The Chair has not the least objection to adjournment—in fact desires it; and if no objection is made, he will adjourn till 3 o'clock.

[*362] *Mr. GRAHAM. I object.

The PRESIDENT. Then we cannot adjourn. The main question is on the adoption of the report of the committee on apportionment.

Mr. STINSON. I appeal from that decision.

The PRESIDENT. It is for the purpose of consuming time.

Mr. STINSON. The Chair has no right to construe my motives.

The PRESIDENT. Will the gentleman give his reason and authorities for the appeal?

Mr. STINSON. If the Chair will give me a reasonable time, I will. (Laughter.)

Mr. GRAHAM. It is self-evident that this is only for the purpose of delaying time.

Mr. RITCHIE. I move an adjournment.

The PRESIDENT. If there is no objection—

Mr. STINSON. I object. (He then proceeded to read and ground his appeal upon Cushing's unabridged work on the Rules and Regulations of Deliberative Assemblies.)

Mr. INGALLS. I move that the Convention take a recess till 1 1-4 o'clock.

The motion was agreed to—

Mr. SLOUGH objecting, and claiming the floor.

So the Convention took a recess till 1:15 P. M.

AFTERNOON SESSION.

The President resumed the Chair at a quarter past one o'clock, and announced the main question, viz: Will the Convention concur in Mr. Graham's motion to adopt the report of the majority of the committee on Apportionment?

Mr. SLOUGH demanded the yeas and nays, and they were ordered.

Mr. FORMAN. I desire to present the reasons for my vote.

The PRESIDENT. The Chair cannot permit an explanation under the rules.

The vote was reported—yeas 26, nays 15—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Ritchie, Signor, Stokes, Simpson, Townsend, Williams—26.

NAYS—Messrs. Barton, Foster, Forman, Greer, Hubbard, Moore, McDowell, McCune, McClelland, Parks, Porter, Ross, Slough, Stiarwalt, Stinson—15.

So the report was adopted without amendment.

Mr. GRAHAM. Mr. President, I move to reconsider the vote just taken, and to lay that motion on the table.

Mr. SLOUGH. I demand the yeas and nays: and they were ordered and taken, resulting—yeas 24, nays 16—as follows:

YEAS—Messrs. Arthur, Burnett, J. Blood, Blunt, Burris, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hanway, Hoffman, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Ritchie, Stokes, Simpson, Townsend, Williams—24.

NAYS—Messrs. Barton, Foster, Forman, Greer, Hubbard, Houston, Moore, McDowell, McCune, McClelland, Parks, Porter, Ross, Slough, Stinson, Stiarwalt—16.

So the latter motion of Mr. Graham was agreed to.

On motion by Mr. KINGMAN, the Article was referred to the committee on phraseology and arrangement, for arrangement and enrollment.

Mr. MCDOWELL. Mr. President, on behalf of the minority of the Convention, I give notice, that we desire to have a protest, which we will prepare against this action, and desire to have the same entered upon the journal.

SCHEDULE.

The PRESIDENT. What is the further pleasure of the Convention?

Mr. FOSTER. Mr. President, I move to take up again the Article reported from the committee on Schedule.

The motion was agreed to, and the report was taken up accordingly.

On motion by Mr. STINSON, the Convention resolved into committee of the whole—Mr. Foster in the Chair—and the said Article (it being [*363] *a continuation thereof, as furnished in a second report from the standing committee) was taken up and considered by sections.

Section 9 was read by the Secretary, viz:

"No debt of the Territory shall be assumed by the State, except by a law passed by a vote of two-thirds of each branch of the Legislature."

Mr. McDOWELL. I would inquire of the chairman of the committee on Schedule, what has become of the former part of the report?

Mr. BURRIS. The committee made their first report on the 15th. There were ten sections presented, and eight of them were acted on. When we were in committee of the whole before on this report, eight sections were adopted, with amendments, and whilst the matter of this ninth section was being considered, the committee rose.

The CHAIRMAN. Sections 9 to 21 inclusive are now before the Convention.

Mr. J. BLOOD. Mr. Chairman, I move to strike out that section.

Mr. McDOWELL. Mr. Chairman, this section has already elicited some discussion; and the gentleman from Douglas (Mr. J. Blood) is now ready to make a speech against the section as it now stands. The reasons he gives—and they are obvious reasons—are, that some of these claims reported by the Claim Commissioners are so complicated by the act of the Territorial Legislature, in connection with the act of a certain Territorial officer, that, in some sense, they may be claimed to be State debts. I apprehend, that it is not the desire here to saddle these claims upon the State, and it is to avoid the payment of those claims by the State, that this section has been introduced. Now, if the general government should refuse to take upon itself the Territorial liabilities, all these claims will have to be paid by the new State—and no doubt will be paid; for if they are just and proper, they can get readily a two-thirds vote of the Legislature to sanction them. And those debts which ought not to be paid should have that safeguard thrown against them. Indeed, I would be in favor of a four-fifths vote. I certainly could not vote for less than two-thirds. I think there is an obvious propriety in sustaining this section.

Mr. J. BLOOD. Mr. Chairman, I can see no propriety in the adoption of a section of this character. It is repudiating the debts of the Territory. If I am correctly informed, the debts of the Territory cannot become the debts of the State, without the action of the State again. In the Article on Finance and Taxation I believe there is a provision to the effect, that no debt shall be contracted by the State, beyond a certain amount, without being first submitted to a direct vote of the people. If this debt of the Territory cannot become a debt of the State, without some act of the State, I think there is no danger, so long as the proposition would have to be submitted to the people. I see no reason for repudiating the debts of the Territory now; and for that reason I moved to strike out the section.

Mr. GRAHAM. Mr. Chairman, I agree with my friend from Leavenworth (Mr. McDowell) in this matter; and I disagree with my friend from Douglas (Mr. J. Blood) that this is a repudiation of the debts of the Territory. For it is well known, that by that Territorial act, these claims were not to become debts of the Territory, until they should be submitted and passed upon by the Legislature. The Commissioners were to take the testimony and submit it to the future Legislature, and they were not to be debts of the Territory until the Legislature should pass upon them. But I am told, sir, that, in violation of that law, the Auditor has drawn his warrant for those claims, and that these warrants have become funded in the hands of the Commissioners as *bona fide* debts of the Territory. Therefore I say, it is due to the people, that we should guard this matter as proposed in the section.

Mr. HOUSTON. Mr. Chairman, I rise to ask the committee to pause before they take a step fraught with consequences which I see in this

[*364] *clause. For I am free to say, that the adoption of such a section would be equivalent to a repudiation of our debts. Before we commence contracting debts, shall we commence repudiating? Are we prepared for anything of this kind?—to say that the debts of Kansas shall not be paid, unless they can pass by a two-third vote of the Legislature? For my part, I shall hesitate a great while first; and unless I see more light than falls upon it now, I shall be compelled to vote for striking out. If by any hook or crook of the Legislature, or action of the government officers, there has been a certain amount of debt fastened upon the Territory, still I will not throw it off by repudiation. Repudiation can do nothing but harm. It will only strike down our credit. Gentlemen cannot be willing, at this particular point in our organization, to commence a career of repudiation! The public indebtedness cannot be changed by this. If a debt has been fastened upon us legally, we must meet it legally. I understand that this Convention is going to ask Congress for an appropriation for this purpose. But it does not follow, if the appropriation is not granted, that we should pay it. Why then strike down our credit? The very bonds that we get here—worth thirty-five cents—must they be stricken down lower?

Mr. BLUNT. Mr. Chairman, I certainly agree with my friends from Leavenworth and Atchison (Messrs. McDowell and Graham) in the view they take relative to throwing out these claims—that they are not to be sold, and the Territory cannot be made to assume them without the consent of a majority of two-thirds, or, as I would prefer it, without the consent of the people. I think that there should be some distinction made between debts of the Territory arising from this source, and other debts that have been legitimately contracted. It is very probable that, upon our admission, all the legitimate debts of the Territory will be assumed by the general government. But if such should not be the case, I presume that no gentleman can desire that Kansas should repudiate her just debts. Hence I think we should make some provision, whereby there will be a proper discrimination made between debts that properly belong to the Territory and those that may grow out of these awards of the Commissioners of Claims. For I agree with my friend from Atchison (Mr. Graham) that in the matter of these claims there certainly has been something wrong—that the spirit of the law has been violated. For I believe that it has never been contemplated, that these claims for losses in 1856, should become funded debts of the Territory; and I think, that in drawing his warrants for them on the Treasury, the Auditor has certainly transcended his duty; and I have prepared a section which I think meets the case and makes the proper distinction, which I will offer as a substitute for the 9th section:

"All debts of the Territory shall be assumed by the State, except such indebtedness of the Territory as may grow out of the awards of the Commissioners of Claims appointed under the act of the Territorial Legislature, approved February 7, 1859, which indebtedness shall not be assumed by the State except as shall be hereafter provided by law; and no law providing for the payment of said claims shall have any force or effect, until it shall have been first submitted to the people at some general election, and shall have received a majority of all the votes cast."

Mr. BURRIS. Mr. Chairman, I object to the amendment of the gentleman from Anderson (Mr. Blunt) for the reason that it assumes the debts that may grow out of the awards of Claims by the Commissioners.

The CHAIRMAN. It has received no second.

Mr. BURRIS. Then I am upon the motion to strike out. Being a member of the committee on Schedule, at the time this section was inserted, with a very limited knowledge of the matter, I was at first rather in favor of the insertion of the section. But my knowledge is still very limited in the matter—so limited that I am not so well prepared to pass upon it as I [*365] could de*sire to be; but after the best reflection I can bestow upon it, my judgment is, that the section ought to be stricken out. The section provides that "no debt of the Territory shall be assumed by the State, except by a law passed by a vote of two-thirds of each branch of the Legislature. That would strike just as directly at all the other debts of the Territory, as it would at those assumed or supposed debts which may grow out of these awards. If there are just debts against the Territory—and we all know there are—the section would preclude the Legislature from passing a law for the liquidation of those just debts without a two-thirds majority of all the members of each branch—just as much an impediment to the passage of a law for the payment of the just as the unjust debts. Again: from the best information I can gather—the words of the gentleman from Atchison—I do not consider that the awards of these Commissioners constitute a debt against the Territory at all.

Mr. GRAHAM (interrupting). If the law had been carried out in good faith, certainly they would not have constituted debts of the Territory. But I say the Auditor has drawn his warrants on the Treasury in favor of these awards to the extent of one hundred thousand or one hundred and ten thousand dollars, and this amount has become funded.

Mr. BURRIS (resuming). Some take the position, that these are debts of the Territory, others that they are not. My position is this: Whatever debts the Territory may have contracted—foolishly or wisely—if they are debts—in any amount—and I care not for what purpose contracted—I am not prepared to say, that the State Legislature shall not pass a law for the payment of those debts. My own opinion is, that these awards do not constitute a debt against the Territory; but if they do, I believe that the Territory ought to pay them. Looking at it in every shape it can have, it seems to me, that it would be manifestly improper to have a section in the Constitution providing that no debt of the Territory shall be paid by the State, unless two-thirds of the Legislature shall be in favor of it. I would say, that a bare majority should be sufficient to authorize the people of Kansas to pay their debts.

Mr. J. BLOOD. Mr. Chairman, there is no proposition to assume the debts of the Territory, nor do I think that necessary; nor can I see any necessity for the repudiation of debts. Gentlemen say that they are not in favor of these claims awarded by the commissioners being paid by the State. I presume that I am as much opposed to that as any gentleman in the Convention. It is the opinion of some that these awards have been converted into debts of the Territory. The question with me is, What course should be pursued to secure the payment of all the just debts of the Territory, and also the payment of these claims, by the general government? It seems to me that the best course is, not unnecessarily to repudiate these debts. We should not, in one breath, ask Congress to pay these debts, and in the next breath turn round and declare that they are not just debts! It seems that would not be the way to get the debts paid by the general government. When the time shall come (if it ever does) that the State is called upon to assume the debts of the Territory, then

this discussion might be proper, but it seems to me quite out of place here—that its tendency is to prevent the assumption of the debts by the general government, by starting out with open repudiation—that the effect will be to increase the difficulty. For that reason I here moved to strike out the section.

Mr. KINGMAN. Mr. Chairman, I do not propose to discuss the main question, but only to set the reasoning of the gentleman from Atchison (Mr. Graham) right. He assumes that an officer of the Territory (with an object which I cannot explain) has acted in violation of law and enacted a debt against the Territory. If the Auditor has drawn his warrant, and [*366] it is not authorized by law, it is entirely null and void; *and if he has drawn his warrant as the law required, he has but done his duty. And the interpretation of that act of the Territorial Legislature will have to be reserved for future action. That most unfortunate act of the Legislature—of which the gentleman from Atchison was a member—has produced all this trouble; and it will be hard for him to shirk his part of the blame of making a contradictory law—presenting a line of duty to a public officer, and declaring that the performance of that duty shall have no result—it will be impossible for his skill to pass that responsibility from where it belongs, and fasten it upon the shoulders of an officer of the Territory, or any one else.

Mr. GRAHAM. Mr. Chairman, I am no lawyer. I only know a few facts, and I wish to present only facts. I have no personal interest, nor have I any feeling, growing out of the question whether money is to be paid or not, under these awards of the commissioners But, sir, when that body—the Legislature—is charged with doing a thing which I know they did not do, I feel myself called upon to stand up and repel it. The history of that legislation is this: On my arrival in that body—about the middle of the session—this law of the 6th of February had been introduced. It struck my mind at the time clearly, that the law gave too much power to the Commissioners. We were to select one, the Council one, and the Governor the third. Their action was to be final and conclusive. I thought this was giving power unheard of—that it might throw the Territory of Kansas not merely a half a million, but two, three, or five millions in debt. I at once prepared an amendment, but before I was ready to offer it the bill had passed through the House, and was on its third reading, without opposition. I rose and offered the amendment, and the Speaker ruled me out, because the bill could not be amended on the third reading of the amendment. It was for the purpose of providing that the action of these commissioners should have no binding force upon the people of the Territory; but that they should report to a subsequent Legislature for their action. And they passed the bill with only three nays. My amendment became the subject of conversation all round—and from the 7th to the 11th of February, what was the result in that body? They saw that they had legislated hastily and without consideration—that they had gone too far, and that the act itself was void—because we had there instituted a court under the name of a Commission, to try and adjudicate claims. We examined this matter fully. My friend, Mr. Berry, of Riley—an honest and upright man, who had voted for the bill, saw the point, and went in for the correction, heart and hand. Well the council selected their man, and an effort was made in our body to select our man. I asked to be excused from voting, because the law was void—proposing to establish a court which was in violation of the organic act. The House could not agree on a candidate, and made no selection; and then they came to

the conclusion of preventing the operation of the law of the 7th of February, by refusing to elect their man—one of the commissioners. The friends of these claimants then came forward with a supplement to the act of the 7th of February, which covered all the ground I claimed, and that was, that the finding of the commissioners should have no valid effect, but that they should report to the Constitutional Convention and to the subsequent Legislature of Kansas. This supplemental bill was passed, and we, believing it covered everything we contended for—not only guarding the people against an onerous burden of debt that likely might not be well founded, but doing at the same time what we considered to be due to those claimants. Thus was attempted to correct the error of confiding to those commissioners high judicial powers, which had been committed in the haste with which it was sought to compensate the losses of those men who had periled their lives in the cause of freedom in Kansas. I had no [*367] objection to their pay, but only wanted to place *them in a position where they would have some legal and tangible ground to stand upon. The supplemental bill was passed. And after the bill was passed—so careful were we, that we refused to select our commissioner until after the bill had passed both branches, and was signed by the Governor and laid on the table before us. But that supplement seems to have been set at naught, because its title does not correspond with the title of the act of the 7th of February. And thereupon, I understand, that a Territorial officer, without a legal decision in the case, has taken it upon himself to violate the law, and throw himself back upon the act of the 7th of February. This explanation is due to that body—and when men come here and charge blame upon that Legislature—after we have seen the mutilation of their acts by clerks, printers, or others, I feel compelled to arrest the charge come from what quarter it may. The subject is with the Convention. I have no feeling upon it. But I say, if there is in this a debt that ought to come against the Territory, the claimant ought, in good faith, to look at the law as it is; and when he goes beyond that, it is taking a step that might throw suspicion upon his claim.

Mr. HOUSTON. Mr. Chairman, I understand that the people sent us here for the purpose of making a Constitution, and not to legislate. I do not understand that when we become a State we have to pay all the debts of the Territory, or that we have to pay any of them, without a legal assumption. It is usual, I believe, for the Legislature, upon the adoption of a State Constitution, to acknowledge and pay the debts of the Territory. Such a thing is usual in the history of a government passing out of the Territorial condition. These debts may be assumed in whole or in part. Every claim will be brought to bear against the Territory, and the Legislature may discriminate and pay what part they please. As I understand it, unless we assume the Territorial debt, there is no law by which we are bound to pay any portion of it. We might go on here, and say we assume, &c. But I think that we had better say nothing at all in the Constitution about it. Let it stand as though we had no debts to pay. Indeed I do not understand that we are bound to pay the debts of the Territory. If we were to adopt the amendment of the gentleman from Anderson (Mr. Blunt) it would seem to me like saying: we will pay some debts; but there are certain other debts that we will not pay. It will be virtually saying to Congress: "There are some debts just and right; but these claimants, who have lost their property and have just claims on the General Government—these we repudiate." It will throw a stain of distrust upon them, by virtually saying to Congress: "We wish you to pay these

debts, though we believe them to be unjust!" If we have ever to repudiate, let us not begin just now. When debts come up to millions, it will be time enough to repudiate. It looks foolish to me to repudiate before we begin to make debts.

Mr. PRESIDENT WINCHELL. Mr. Chairman, amidst the difficulties which surround this section, it seems to me it would be the part of prudence to ascertain and see what has been the action of Constitutional Conventions under similar circumstances. Upon examination of the schedules of the Constitutions of Minnesota and Oregon, I find not the most remote allusion to the public debt of the Territory—no offer to assume or repudiate. In fact, repudiation is impossible, because the debts do not belong to the State. It seems to me, sir, that this whole argument, instead of rising to the dignity of a principle proper to be considered here, has been but the review of a mere incident in our legislative history, and as such it is out of place—and until some argument is proposed for inserting in the Constitution, a provision in regard to the Territorial debts, I shall hold it out of order. I hope the section will be stricken out.

[*368] The question was now taken on Mr. J. *Blood's motion to strike out the 9th section; and it was agreed to.

So the resolution was rejected.

Section 10 being read, viz:

"SEC. 10. Until otherwise provided by law, the seat of government shall be at ————."

On motion by Mr. WINCHELL, it was stricken out of the article, as superseded matter.

Mr. GREER. Mr. Chairman, before passing from this part of the report, I move a reconsideration of the vote adopting section 4, for the purpose of enabling me to submit an amendment, adding the following words:

"Except an act entitled an act to provide for the adjustment and payment of claims, approved February 7, 1859; and an act entitled an act supplementary to an act entitled an act to provide for the payment of claims, approved February 11th, 1859." I desire to provide for the continuance of these acts.

Mr. PRESIDENT WINCHELL. Mr. Chairman, the uniform practice of the Convention and Committee has been, that no reconsideration is in order until the article has been gone through.

The CHAIRMAN. The point is well taken. The Secretary will read the next section—the 9th section in the second report.

Sections 9, 10 and 11 were then read and passed without amendment, viz:

"SEC. 9. For the purpose of taking the vote of the electors of this Territory for the ratification or rejection of this Constitution, an election shall be held in the several voting precincts in this Territory, on the first Tuesday in October, A. D. 1859, which election shall be governed by the election law of the Territory of Kansas.

SEC. 10. Each elector shall express his assent or dissent to this Constitution by voting a written or printed ballot labelled "For the Constitution," or "Against the Constitution."

SEC. 11. If a majority of all the votes cast for and against the Constitution shall be in favor of the Constitution, then there shall be an election held in the several voting precincts of this Territory on the first Tues-

day in December, A. D. 1859, for the election of all the State, district and county officers provided for in this Constitution, and for a member of Congress."

Section 12 was read, viz:

"SEC. 12. All persons having the qualifications of electors, according to the provisions of this Constitution, at the date of each of said elections, and who shall have been duly registered according to the provisions of the registry law of this Territory, and none others, shall be entitled to vote at each of said elections."

Mr. PRESIDENT WINCHELL. I move to amend section 12 by adding these words: "under this Constitution." I believe this section is intended to apply to elections under this Constitution, for the fact that the 9th section provides that the qualifications of voters on the ratification of the Constitution shall be the same as under the Territorial election laws; and that being the case, for the purpose of avoiding any ambiguity, I propose to be specific here, by inserting the words I have given.

Mr. STINSON. Mr. Chairman, I understand by this that the gentleman proposes to enact a registry law under this Constitution.

Mr. WINCHELL. The object is to define the election intended by this section. By section 9, the election upon [the ratification of] this Constitution is governed in all respects by the election law of the Territory, and for the purpose of making this section definite, I move these words.

Mr. STINSON. I move to strike out the entire section.

Mr. BURRIS. The qualifications of electors under this Constitution, are different from the qualifications under the Territorial laws. The election laws of the Territory prescribe three months' residence—this Constitution prescribes six months. This Constitution requires a six months' resi- [*369] dence. Section 9 provides for an election on the first Tuesday *in October, at which the people shall vote upon the adoption or rejection of this Constitution. In the event of its adoption, section 11 provides for another election on the first Tuesday in December. It seems to me that no amendment is needed. It is just as clear as it can be. The only question (if there can be any in the premises) is whether the Convention desires the qualifications to be the same for voting upon the Constitution as for voting under the Constitution.

Mr. WINCHELL. I desire to avoid any conflict in the provisions of sections, and to avoid conflict with the general election laws. Section 9 provides that the election in October shall be governed by the election laws of the Territory of Kansas. These election laws define the qualifications of voters. At the same time section 12 defines the qualifications of voters, but in a different way. Now, if there is no conflict here, I have no desire to amend. But, if section 12 conflicts with section 9, as it seems to me it does certainly, as regards the election in October, it seems to me that some amendment should be made to make it correspond. I suggest to the chairman of the committee on schedule whether I am not correct.

Mr. BURRIS. There might be possibly conflict. But I would suggest to strike out and correct in section 9 in preference to section 12. I would prefer to leave the qualifications as they are in section 12. I will undertake to move in Convention to strike out the last clause in section 9.

Mr. WINCHELL. I will waive the matter, until the proper time for the consideration of section 9.

The section was then passed.

Sections 13 to 21, inclusive, were severally read and passed to the end of the Article, viz:

"SEC. 13. The persons who may be judges of the several voting precincts of this Territory at the date of the respective elections in this Article provided for, shall be the judges of the respective elections herein provided for.

SEC. 14. Said judges of election, before entering upon the duties of their office, shall take and subscribe an oath faithfully to discharge their duties as such. They shall appoint two clerks of election, who shall be sworn by one of said judges faithfully to discharge their duties as such. In the event of a vacancy in the board of judges the same shall be filled by the bystanders.

SEC. 15. At each of the elections provided for in this Article the polls shall be opened between the hours of nine and ten o'clock, A. M., and closed at sunset.

SEC. 16. The tribunals transacting county business of the several counties, shall cause to be furnished to the boards of judges in their respective counties two poll books for each election hereinbefore provided for, upon which the clerks shall inscribe the name of every person who may vote at the said elections.

SEC. 17. After closing the polls at each of the elections provided for in this Article, the judges shall proceed to count the votes cast and designate the persons or objects for which they were cast, and shall make two correct tally lists of the same.

SEC. 18. Each of the boards of judges shall safely keep one poll book and tally list, and the ballots cast at each election, and shall, within ten days after such election, cause the other poll book and tally list to be transmitted, by the hands of a sworn officer, to the clerk of the board transacting county business in their respective counties, or to which the county may be attached for municipal purposes.

SEC. 19. The tribunals transacting county business shall assemble at the county seats of their respective counties on the second Tuesday after each of the elections provided for in this Article, and shall canvass the votes cast at the elections held in the several precincts in their respective [*370] counties, and of the coun*ties attached for municipal purposes. They shall hold in safe keeping the poll books and tally lists of said elections, and shall, within ten days thereafter, transmit, by the hands of a sworn officer, to the President of this Convention, at the City of Topeka, a certified transcript of the same, showing the number of votes cast for each person or object voted for at each of the several precincts in their respective counties, and in the counties attached for municipal purposes, separately.

SEC. 20. The Governor of the Territory, the President of this Convention and the Secretary of the Convention shall constitute a Board of State canvassers, any two of whom shall constitute a quorum; and who shall, on the fourth Monday after each of the elections provided for in this Article, assemble at said City of Topeka, and proceed to open and canvass the votes cast at the several precincts in the different counties of the Territory and declare the result, and shall immediately issue certificates of election to all persons (if any) thus elected.

SEC. 21. Said Board of State Canvassers shall issue their proclamation not less than twenty days next preceding each of the elections provided

for in this Article. Said proclamations shall contain an announcement of the several elections, the qualifications of electors, the manner of conducting said elections and of making the returns thereof, as in this Constitution provided for, and shall publish said proclamation in one newspaper in each of the counties of the Territory in which a newspaper may be then published."

Mr. GREER. Mr. Chairman, I offer the following additional section:

"SEC. 22. This Constitution shall be conveyed to Washington City by ————, who shall deliver authentic copies thereof to the President of the United States, to the President of the Senate, and to the Speaker of the House of Representatives."

Mr. WINCHELL. Mr. Chairman, I would inquire whether it would not be sufficient for our purpose, to send a copy of the Constitution to Washington by our Delegate to Congress? It would save the expense of a special messenger. It would save the feeling that competition might raise for that privilege, because we do not yet know who will be our Delegate to Congress.

Mr. MCDOWELL (in his seat). Some clever Democrat.

Mr. WINCHELL. My friend McDowell might desire to insert his name in the blank.

Mr. HOUSTON. I think we had better leave it with the Governor, and the President and Secretary of this Convention.

Mr. MCDOWELL. I move to fill the blank with "Delegate to Congress."

The motion was agreed to, and so the section passed.

The committee then rose, and the Chairman reported the Article back to the Convention with the foregoing amendments, recommending concurrence.

Mr. GREER. Mr. President, I move to reconsider the vote adopting section 4, for the purpose of enabling me to offer an amendment. The words of that section are:

"SEC. 4. All laws and part of laws now in force in this Territory, not inconsistent with this Constitution, shall continue and remain in full force until they expire, or be repealed."

And I propose to add these words:

"Except an act entitled an act to provide for the adjustment and payment of claims, approved February 7, 1859; and an act entitled an act supplementary to an act entitled an act to provide for the payment of claims, approved February 11, 1859."

Mr. J. BLOOD. Mr. President, I do not see the necessity for the amendment, and shall be compelled to vote against it.

Mr. KINGMAN. I would like to hear what would be the effect of the amendment.

Mr. GREER. It is to present the act under which these claims for losses [*371] of property in 1856, and under which it is supposed that a *debt is devolved upon the Territory, from having any force after the adoption of this Constitution.

Mr. STINSON. Mr. President, it strikes me that the gentleman makes a very grave error in supposing it can have any such effect. This law has been enforced. It is said to have an application to those claims that exist beyond and above law; and to repeal it, is just an attempt to do what can

have no effect whatever in any manner or form that I can conceive of. It is simply repealing a law after it has done the work. I do not want to go to work at repealing laws here. It is beneath the dignity of the Constitutional Convention, I should think.

Mr. GRAHAM. Mr. Chairman, I find in that Constitution—which I think is a model for the gentleman from Leavenworth—the Lecompton Constitution—that in proposing to pass out of the Territorial condition into that of a State, they there make an exception of one law, just as the gentleman from Shawnee (Mr. Greer) now proposes to do. There we have a precedent!

Mr. Greer's amendment was rejected—affirmative 9, negative 14.

AS TO SLAVES.

Mr. STINSON submitted the following additional section:

"SEC. —. In the event that this Constitution is ratified by the people according to the provisions of the same, then section six of the Bill of Rights, shall be suspended in its operation, as to slaves in the Territory at the time this State is admitted into the Union, for the space of twelve months thereafter, at the expiration of which time it shall be revived, and remain in full force and effect forever."

Mr. BLUNT. I move to lay it on the table.

Mr. STINSON. I demand the yeas and nays.

Mr. BLUNT. I withdraw the motion.

A Voice. It is not in order.

The PRESIDENT. The Chair is of opinion, that the section is in order.

Mr. STINSON. Mr. President, I will state briefly—without attempting to argue the question—the object I have in introducing this section. It is well known that there is slave property held in this Territory under color of law. And by the operation of this Constitution, the moment it goes into effect, these slaves are liberated; and I have introduced this proposition, in order that this Constitution may not work this seeming injustice—but that a reasonable time—I care not if it is but six months—should be given to those owning slave property, to remove them out of our borders.

Mr. STINSON demanded the yeas and nays, and the same being seconded, ordered and taken, the vote stood—yeas 11, nays 28—as follows:

YEAS—Messrs. Barton, Burris, Foster, Hubbard, Hoffman, McDowell, McCune, Palmer, Signor, Slough, Stinson—11.

NAYS—Messrs. Arthur, Burnett, Blunt, J. Blood, N. C. Blood, Crocker, Dutton, Forman, Graham, Greer, Griffith, Hanway, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McClelland, McCullough, Preston, Porter, Ritchie, Ross, Stokes, Simpson, Townsend, Williams—28.

MR. FOSTER'S REASON FOR HIS VOTE.

"I vote in favor of the adoption of the section because it covers the express instructions of my constituents on the subject of slaves now in the Territory. R. C. FOSTER."

So the section was rejected.

Mr. BLUNT. I now move to adopt the article, as a whole.

Mr. GRAHAM. I move to amend the motion by an order to consider it section by section.

The latter motion was agreed to.

Section 9, of the second report, was read, viz.:

"SECTION 9. For the purpose of taking the vote of the Electors of this Territory for the ratification or rejection of this Constitution, an election shall be held in the several voting precincts in this Territory, on the first Tuesday in October, A. D. 1859, which election shall be governed by the election law of the Territory of Kansas."

[*372] *Mr. BURRIS. Mr. President, I move to strike out the latter clause—these words: "which election shall be governed by the election law of the Territory of Kansas."

Mr. MCDOWELL. I desire to move to strike out the section, and that section 9, as originally reported—in the first report of the Committee on Schedule be inserted in its place. It is in these words:

"SEC. 9. No debt of the territory shall be assumed by the State, except by a law passed by a vote of two-thirds of each branch of the Legislature."

This section was stricken out in Committee of the Whole. I move that it be inserted again, and upon that motion I ask for the yeas and nays.

The yeas and nays were ordered, and being taken, resulted—yeas 14, nays 22—as follows:

YEAS—Messrs. Barton, Foster, Forman, Graham, Greer, Hubbard, McDowell, McCune, McClelland, McCullough, Palmer, Signor, Slough, Simpson—14.

NAYS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Griffith, Hanway, Hoffman, Ingalls, Kingman, Lillie, Lamb, Middleton, Preston, Porter, Ross, Stokes, Townsend, Williams—22.

So the motion to amend was rejected.

ASSUMPTION OF THE DEBTS OF THE TERRITORY.

Mr. BLUNT. Mr. President, I now move that the proposition I offered in the committee of the whole, be inserted in the place of section 9. It is as follows:

"SEC. 9. All debts of the Territory shall be assumed by the State, except such indebtedness of the Territory as may grow out of the awards of the Commissioners on Claims appointed under an act of the Territorial Legislature, February 7th, 1859; which indebtedness shall not be assumed by the State, except as shall be hereafter provided by law, and no law providing for the payment of said claims shall have any force or effect until it shall have been first submitted to the people at some general election, and secure a majority of all the votes cast."

Mr. J. BLOOD. Mr. President, I do not understand the extent of the exception in this provision. I am opposed to assuming any debts of the Territory by this Convention. I expect the expenses of the Territory will be paid by the general government, as they should be, without assumption or repudiation on our part. I am opposed to the section, for the reason before stated—that I think it proposes what is improper, unnecessary, unusual and out of precedent—that we should assume a debt that is strictly and properly a debt of the general government of the Union.

Mr. BLUNT. Mr. President, I understand that there is a disparity of opinion on this matter. I do not think it certain that the general government will pay all the debts of the Territory. It seems, from the evidence before us, that certain claims growing out of the awards of the commissioners on claims, have to a certain extent, become debts of the Territory—warrants for them having been drawn upon the treasury. Now the ques-

tion arises, if the federal government should not see proper to liquidate the debt arising [out] of the awards of these claims—which I do not think at all improbable—what will be the position of the State in this matter, unless we determine here on some course of action? It appears to me that it will stand as a debt against the State. And I think it altogether proper that we should have some understanding in relation to this matter here. I think there is no gentleman here desirous of repudiating any of the legitimate debts of the Territory; but I believe that nineteen-twentieths of the people of the Territory would repudiate any debt growing out of the awards of these commissioners. Hence, I am in favor of settling the matter here, and providing that no such indebtedness shall be assumed by the State, without some future legislation, and that the law providing for it shall be ratified by the people. If Congress should see proper to make an [*373] appropriation to pay these claims, well and good. *Then there will be no necessity for further legislation upon it. But I do not feel like leaving it an open question.

Mr. RITCHIE. It seems to me, sir, that there is a necessity for something to be done here. In looking over the report of these commissioners, I find something reading in this wise: "It shall be the duty of the Auditor of this Territory, upon the delivery of any certificate of award given by said commissioners, to draw his warrant for the same upon the Treasury of the Territory," &c. Now, sir, it seems to me, that under this clause, these awards, become as much a part of the debt of the Territory, as any other of our indebtedness; and I believe that the general feeling upon this question in this Convention is, that we should not do anything that could be taken, in any way, as an endorsement of the validity of these claims. From the close manner in which these claims have been watched it seems to me unnecessary that the matter should be well guarded. I understand that these claimants are only asking of us that their matter should be sent up to Congress. Then it behooves to inquire what will be the consequence in case they are not accepted and paid by Congress. Do they or not become a debt of the Territory?

Mr. GRIFFITH. Mr. President, it seems to me to be our policy neither to endorse or repudiate, but leave the matter entirely in the hands of the Legislature. If we remain silent, it will be competent hereafter for the Legislature to make any necessary provision in the case. And if Congress should not pay—but I believe that Congress will pay all fair and honest claims—it might be wrong to blame a constitutional provision prohibiting the Legislature from assuming them. I think there should be no such provision. I think it better for the Constitution to be silent in this matter, and leave it entirely in the hands of the Legislature.

On motion by Mr. J. BLOOD, the section was laid on the table.

Mr. BURRIS. Mr. President, I move the adoption of the article as a whole.

REGISTRY LAW.

Mr. HOUSTON. Mr. President, I see this provision in the 11th section: "If a majority of all the votes cast for and against the Constitution shall be in favor of the Constitution, then there shall be an election held in the several voting precincts of this Territory on the first Tuesday in December, A. D. 1859, for the election of all State, District and County officers provided for in this Constitution, and for a member of Congress." And in the 9th section there is the same difficulty which might be brought up. I wish to inquire what will be the position of those who are not registered?

Whether it will not have the effect of excluding from the polls the people of the outside counties, where the registry law [has] not been observed. As I understand that law, the 15th day of August is the time for the officers to close up the lists; and that being the case, there will be a great many in Kansas who will not have the privilege of voting at these elections.

Mr. McDOWELL. Mr. President, before the final motion is put, I desire to make a motion. In the 12th section of the second report are these words: "and who shall have been duly registered according to the provisions of the registry law of this Territory, and none others." I desire to move to strike out these words.

The PRESIDENT. The gentleman will have first to move a reconsideration of the article.

Mr. McDOWELL. If the Chair please, we have not yet passed the article in the Convention.

The PRESIDENT. The Chair stands corrected.

Mr. McDOWELL. I demand the yeas and nays on this.

Mr. BURRIS. Mr. President, I would like for the gentleman to state his reasons for the motion. If there are any good reasons for striking out the clause, we would like to hear them.

Mr. McDOWELL. Unfortunately, sir, good reasons do not come from this side of the House!

Mr. PARKS. Mr. President, the reason why I shall vote for striking out [*374] is, I know there *are many in my county who have not complied with the registry provision.

Mr. J. BLOOD. Mr. President, I desire to offer an amendment to change the 9th section, so that the election for the ratification of the Constitution shall be held on the second Tuesday in November—the time of the election of delegate to Congress, instead of the second Tuesday in October. It will be necessary, in all parts of the Territory, for the people to come out to the election of a delegate to Congress. Before the final adoption of the article, I wish to propose this change, for the purpose of getting out a full vote upon the Constitution. I think there should be no difficulty about the registry law. All the voters in the Territory should be registered and vote upon this Constitution, and this will swell the poll. For many will be registered in time to vote for delegate, who might not register for a vote on the Constitution alone.

Mr. BLUNT. Before voting on this proposition, I would like to understand one thing, and that is, whether the provision of the law as to the time of registry has been construed to extend up to within ten days before the election?

Mr. J. BLOOD. I have been so informed. I think there is no doubt of it at all.

The vote was now taken on Mr. McDowell's amendment, resulting—yeas 10, nays 27—as follows:

YEAS—Messrs. Barton, Forman, Hubbard, Moore, McDowell, McCune, Palmer, Parks, Slough, Stiarwalt—10.

NAYS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hanway, Houston, Ingalls, Lillie, Lamb, Middleton, McCullough, Preston, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Townsend, Williams—27.

So the Convention refused to strike out the clause.

Mr. J. BLOOD. I now move to amend the 9th section, by striking out "October" in the third line, and inserting "November" in its place. It will save the expense of an election.

Mr. BURRIS. Mr. President, there are one or two objections presenting themselves to this amendment. The first Tuesday in October is the day fixed upon in the Territorial law for the vote on the ratification of this Constitution; and then the first Tuesday in November is fixed upon in this Constitution as the day for the general State election. Again, the 21st section of this article provides that the proclamation of the board of general canvassers for the first State election under this Constitution, shall be made not less than twenty days previous to such election, and that election is fixed for the first Tuesday in December; and if the election for the adoption or rejection of the Constitution be changed from October to November the returns will not be in in time for the proclamation. The people would not know, until a very few days before the first Tuesday in December, whether the Constitution was adopted or not. It seems to me it would not be safe to make such a risk. But the gentleman says, it would save expense and bring out more voters. There is no question about that. But it would be complicating matters—mixing a State election with a Constitutional election. The November election is large enough now. And I would a little rather see the Constitution voted for disconnected from any other consideration. Let it come before the people on its own merits alone. I would, therefore, prefer the day fixed in the article.

Mr. J. BLOOD. Mr. President, I think the objection raised by the gentleman from Johnson (Mr. Burris) that the election for State officers would come in so short a time after the submission that there would not be time for the proclamation, could be easily avoided by fixing the time for the first election of State officers at a later day—say the second Tuesday in December. The gentleman from Johnson is desirous that the Constitution should be voted upon by the people—that they should express their approval or disapproval, distinct from other questions. But I fear, if this [*375] Constitution is submitted so short a time before an important election, and at so busy a season of the year, when the farmers will be engaged in harvesting—that it will be very difficult if not impossible, in many districts, to hold the election. Perhaps but very few would come out to vote simply for or against the Constitution. Perhaps a majority of the voters would stay away that day. There would be nothing of sufficient interest to bring out as large a vote as it seems to me desirable that there should be had upon a State Constitution before it goes up to Congress. A full expression of the people is desirable, and I think such an expression cannot be had in October, but it can be had in November. Consequently, I move to strike out the first Tuesday in October, and insert the first Tuesday in November, 1859.

The amendment was agreed to—affirmative 21, negative 10.

Mr. MCDOWELL. In the 15th section it is provided that the polls shall be opened between nine and ten a. m. and closed at sunset. I would say—open at 9 a. m. and close at 6 p. m., and make that motion.

Mr. BURRIS. I think that would be preferable. The days are growing shorter. Six o'clock in December would be late. Five o'clock would not be late enough, perhaps, to close the polls at the first State election.

Mr. GRIFFITH. As the section now stands, the election on the Constitution and the election for State officers will be only two weeks apart.

Mr. HOUSTON. Mr. President, I think it better to leave it as it is. My reason is this: If you say nine o'clock and six o'clock, you open up opportunities for quibbling and contests in elections, on account of irregular opening or closing—a little too soon or a little too late. But the section now would give the judge an opportunity to open somewhere between nine and ten o'clock. You cannot hold him to the exact time. It would suit better in the rural districts. And there is no man, woman or child but knows about the time when the sun goes down.

Mr. McDOWELL's amendment was rejected.

Mr. RITCHIE. Mr. President, in the twenty-second section I move to strike out the words, "Delegate to Congress," and insert in lieu thereof, "Robert Graham."

The amendment was rejected.

Mr. GRIFFITH. Mr. President, in the eleventh section, I move to strike out "December" and insert "January."

Mr. BLUNT. Have we not fixed January for the time of the meeting of the Legislature?

Mr. GRIFFITH. If that be the case, then we shall have to go back and undo our work, because it will be impossible to hold the two elections within three weeks of each other. They cannot know the result in that time, in the frontier counties. I would then strike out the first Tuesday, and insert the third Tuesday in December.

Mr. J. BLOOD. Mr. President, I can see no difficulty about holding these elections within three weeks of each other. I see no difficulty about the returns, as far as that is concerned. True, if the Constitution should be rejected, there would be no necessity for a second election. It was proposed in the committee on the Schedule, that the State officers and members of the Legislature should be elected at the same time—on the same day as the submission of the Constitution—so as to avoid two elections. I would be in favor of that plan. But I see no necessity for putting off the election of State officers on account of waiting for the returns of the vote on the Constitution.

Mr. BLUNT. Mr. President, I think there is reason for adopting this motion, or for reconsidering the vote changing the time of the ratification. Neither party will want to make their nominations till they know the result of the election on the Constitution. And the probability is, that it [*376] will require a week to obtain *that knowledge. And then, another week to call a convention, would leave no time for the canvass.

Mr. GRIFFITH. I should have had no objection to a proposition to submit the Constitution and vote for State officers on the same day. But as it is, it will be impossible to receive the returns and issue the proclamation. We must have more time than three weeks intervening between the two elections. If the gentleman (Mr. J. Blood) will bring forward his proposition to vote for State officers at the time of the submission of the Constitution, I will support it, and withdraw my amendment. If not, I shall have to insist upon it.

Mr. GRIFFITH's amendment was adopted—affirmative 26, negative 6.

Mr. SLOUGH demanded the yeas and nays upon the adoption of the Article as a whole, and the same being ordered and taken resulted—yeas 24, nays 18—as follows:

YEAS—Messrs. Arthur, Burnett, Burris, J. Blood, N. C. Blood, Crocker,

Dutton, Graham, Griffith, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, McCullough, Preston, Palmer, Stokes, Simpson, Townsend, Williams—24.

NAYS—Messrs. Blunt, Barton, Foster, Forman, Greer, Hubbard, Moore, McDowell, McCune, McClelland, Parks, Porter, Ritchie, Ross, Signor, Slough, Stinson, Stiarwalt—18.

So the Article as amended, was adopted, passed and referred for arrangement and enrollment.

BOOK ACCOUNT OF THE SERGEANT-AT-ARMS.

On motion by Mr. MCCLELLAND, the report of the committee on Accounts, recommending the allowance of the bill of the sergeant-at-arms, for stationery, &c., amounting to one thousand and twenty-seven dollars and twenty-five cents, was taken up, and the reading dispensed with.

The committee's recommendation, that the allowance of the above account be made equal to cash, was read by the Secretary.

Mr. MCCLELLAND. According to the statement of Mr. Warren, the Sergeant-at-arms—this is a cash account—and it being proposed by the Convention to pay in scrip, worth only fifty cents—Mr. Warren says he is willing to take scrip at fifty cents, although he has sold it at forty cents in Leavenworth recently. I move that the amount be doubled.

The PRESIDENT. The Chair understands that Mr. Warren has paid this in cash?

Mr. MCCLELLAND. He has either paid for it in cash, or is responsible for it in cash in a few days.

The motion was agreed to, and the allowance made accordingly.

On motion by Mr. STINSON, it was—

"*Ordered*, That the scrip or certificates of account of those having accounts against the Convention, be signed by the President of the Convention and the Sergeant-at-Arms."

After some conversation between Mr. Ingalls, Mr. Slough and others, with reference to the report of the second special committee, to investigate the allegation of perjury against Mr. Hutchinson, which was required to report this afternoon—

On motion by Mr. INGALLS, said committee was allowed further time to report.

Mr. BLUNT. I move that the Convention adjourn till to-morrow morning at 9 o'clock, instead of 8 o'clock.

The motion was agreed to; and accordingly—

The Convention adjourned till to-morrow morning at 9 o'clock.

WEDNESDAY, July 27, 1859.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

The absentees on the roll call were Messrs. Brown, Barton, Forman, Hoffman, Kingman, May, Perry, Thacher, J. Wright, and T. S. Wright.

The journal of yesterday was read and authenticated.

Mr. INGALLS. Mr. President, as there is considerable unfinished business before the Committee on Phraseology and Arrangement, and as there

[*377] is another large committee now in session *I move that the Convention take a recess till 10 o'clock.

The motion was agreed to, and accordingly the Convention took a recess.

RAILROAD AND SWAMP LANDS.

The President resumed the Chair at 10 o'clock.

Mr. J. BLOOD. Mr. President, I move to recall the article on Ordinance, for the purpose of amendment.

The motion was agreed to and the article was taken up.

Mr. J. BLOOD. I move to reconsider the vote adopting this article.

The vote was reconsidered, and the question recurred again on its adoption.

Mr. J. BLOOD. Mr. President, I move now to strike out the 3d section of this article—it relates to the swamp land appropriation; and also to strike out the 10th section—relating to grants of land for railroads. I make this motion with the view of submitting another report from the Ordinance committee, including these lands in the form of resolutions—to be made a part of the Constitution, but not a condition of the admission of the State—as it now stands.

Sections 3 and 10 are as follows:

"SEC. 3. That all swamp lands in said State shall be set apart and granted to said State for the use exclusively of common schools.

SEC. 10. That two hundred entire townships four million six hundred and eight thousand square miles of land in said State shall be granted and set apart by the government of the United States to said State, for the purpose of aiding in the construction of railroads, and other internal improvements."

These sections were severally stricken out, and the article, as amended, was again passed and referred for enrollment.

Mr. J. BLOOD from the Committee on Ordinance, submitted the following report:

MEMORIAL.

"*Resolved*, That the Congress of the United States be and is hereby requested, upon the application of Kansas for admission into the Union, to pass an act granting to the State forty-five thousand acres of land to aid in the construction of railroads and other internal improvements in the State

Resolved, That Congress be further requested to pass an act appropriating fifty thousand acres of land for the improvement of [the] Kansas river from its mouth to Fort Riley.

Resolved, That the Congress of the United States be and is hereby requested, upon the application of Kansas for admission into the Union, to pass an act granting to the State all of the swamp land within the State for the benefit of common schools.

Resolved, That the Congress of the United States be and is hereby requested, upon the application of Kansas for admission into the Union, to pass an act appropriating five hundred thousand dollars, or in lieu thereof five hundred thousand acres of land, for the payment of the claims awarded to the citizens of Kansas by the Claim Commissioners appointed by the Governor and Legislature of Kansas under an act of the Legislature passed 7th February, 1859.

Resolved, That the Legislature of this State shall make provision by law

for the sale or disposal of the lands granted to the State in aid of internal improvements and for other purposes subject to the same rights of pre-emption to the settlers thereon as are now allowed by law to settlers on the public lands.

Resolved, That the foregoing resolutions be appended to and signed with the Constitution of Kansas, and submitted therewith to the people of Kansas, and to the Congress of the United States."

On motion it was ordered to be now considered by sections.

The first resolution was read and passed.

The second resolution being read—

Mr. McDowell submitted the following, to come in at the close (which he subsequently withdrew):

[*378] *"*Resolved*, That Congress be further requested to pass an act appropriating *all* of the lands of the United States that we have not already begged for, to be applied by seven men to be designated by the President of the United States, to the permanent improvement of the Kaw river so that *turtles* of a *medium size*, may be enabled to make, without serious interruption, their respective peregrinations therein, and that catfish weighing less than fifty pounds may navigate the same without serious detriment to their personal comfort and safety."

The second resolution was then passed.

The several resolutions having been read and passed—

NEW ENGLAND EMIGRANT AID COMPANY.

Mr. J. BLOOD. Mr. President, I wish to offer another resolution, in behalf of the committee, which they considered and adopted after the report went to the printer:

Resolved, That Congress be further requested to appropriate the sum of twenty-four thousand eight hundred and thirty-seven dollars and fifty-three cents for the payment of the claim of the New England Emigrant Aid Company for damages sustained in the lawless destruction of the Free State Hotel at Lawrence on the 21st of May, 1856.

Mr. MCDOWELL. I move to lay the resolution on the table, and demand the yeas and nays.

The yeas and nays being ordered and taken, resulted—yeas 18, nays 20—as follows:

YEAS—Messrs. Barton, Burris, Foster, Greer, Hipple, Hubbard, Middleton, Moore, McDowell, McClelland, Parks, Porter, Ross, Signor, Stinson, Stiarwalt, Stokes, Wrigley—18.

NAYS—Messrs. Arthur, Burnett, Blunt, J. Blood, N. C. Blood, Crocker, Dutton, Griffith, Hanway, Hoffman, Ingalls, Lillie, Lamb, McCullough, Preston, Palmer, Ritchie, Simpson, Townsend, Williams—20.

So the Convention refused to lay it on the table, and the question recurred on the adoption of the resolution.

Mr. STINSON. Mr. President, I hope this resolution may not pass. I shall vote against it, first, because I have no knowledge whatever of the fact recited. I do not know that the New England Emigrant Aid Society lost a dollar. No investigation has been held—no testimony has been taken—upon which any action of the Convention should be based. It is absurd for the gentleman to come in here and propose that the Convention ask the Congress of the United States to give $24,000 for a matter that we know nothing about. And then again, I shall vote against it, because it will invalidate the requests we make in other matters.

Mr. J. BLOOD. The gentleman is mistaken. I suppose the gentleman is aware, that evidence in regard to this case has been submitted to the Convention and referred to the committee. I suppose it is well known that the Emigrant Aid Company sustained a great loss; and the fact here is sustained on the authority of the testimony of a government officer. I send up the papers which have been referred to the Committee on Ordinance.

(The Secretary read the Company's petition, and the testimony of Samuel C. Pomeroy, in regard to the cost of their Free State Hotel destroyed in Lawrence, May 21, 1856, as follows):

"*To the Honorables, the Kansas Constitutional Convention at Wyandotte:*

The petition of the New England Emigrant Aid Company respectfully represents:

That the said Company caused to be built at an early period, in the settlement of the town of Lawrence, Territory of Kansas, a large stone building, known as the Free State Hotel, at an expense of $20,000; that during the recent political difficulties in the Territory, viz: On the 26th of May, 1856, the said hotel building, with all its contents, were entirely destroyed by an armed mob; that at the last session of the Legislative Assembly of the Territory an act was passed, looking to an indemnification of those who sustained losses in the aforesaid political troubles, but its provisions being expressly confined to "citizens" of the Territory, your memorialists were excluded from any benefit of said act. The object of [*379] this petition is, there*fore, to ask of your honorable body that whatever action may be taken by you in behalf of the other sufferers in the late troubles in Kansas, shall be extended to embrace also the New England Emigrant Company.

The accompanying vouchers are subscribed.

Very respectfully,
M. F. CONWAY,
Gen'l Ag't N. E. Emigrant Aid Com."

"HOTEL ACCOUNT AT LAWRENCE, K. T., UP TO MAY 21ST, 1858.

Amount of cash paid for materials and labor for which I kept an accurate account, and paid for the same, as per my book account kept at the time, see page 111 of the Ledger,.....	$20,377.53
Furniture bought at Boston by J. M. S. Williams and sent to Lawrence for Hotel,.....	960.00
	$21,337.53
Additional freight on furniture, paid agents for superintendence, ...	500.00
Three years rent, at $1,000 per year,.....	3,000.00
	$24,837.53

Samuel C. Pomeroy of Atchison, K. T., being personally to me well known, appeared this 9th day of March, A. D. 1859, and made oath that the above account, as rendered, is correct, as shown by his books and vouchers kept at the time of building the Hotel in Lawrence, K. T.

S. C. POMEROY.

Sworn and subscribed before me, Geo. H. Fairchild, Notary Public for Atchison County, K. T. G. H. FAIRCHILD, *Notary.*"

Mr. McDOWELL. Is not that the same hotel for the destruction of which Mr. Eldridge has claimed damages, and had heavy damages awarded by the Claim Commissioners?

Mr. J. BLOOD. I understand not. I am so informed by one of the commissioners. The commissioners were not at liberty to allow this claim, because the company were not residents of the Territory. I am not aware that Mr. Eldridge has been allowed anything for the destruction of that hotel, or any hotel. I am under the impression that no such claim has been allowed.

Mr. STINSON. Mr. President, I would like to enquire if that which was read is all the testimony?

Mr. J. Blood. That is all.

Mr. STINSON. Then I think my statement was correct—that there was no testimony.

Mr. HOUSTON. Mr. President, it seems to me that we ought to be a little careful in disposing of this claim. The gentleman from Leavenworth (Mr. Stinson) says it will prejudice other claims. I am of the same opinion, but I make a different application of it. If this Convention decide that the people of Kansas ignore this claim, and resolve that it should not be paid—if we take that position, Congress will say at once, why pay those other claims standing on precisely the same footing—the only difference being, that these claimants are not residents of the Territory. If we ignore this claim here, which we acknowledge to be just, and resolve that we will not ask Congress to pay it, it will prejudice all these claims before Congress. I understand that this hotel belonged to the Emigrant Aid Company, and to nobody else; and that Mr. Eldridge did not get an award for it. I cannot believe that the commissioners have gone so far astray. Sir, there is no reason why the Emigrant Aid company should be excluded in this way. I do hope that we will place their claim on the same footing with the others, and let the General Government discriminate if they will. Let us take a noble, just position in regard to these claimants.

Mr. BURRIS. When this matter first came up, I knew nothing of the facts, and voted to lay it on the table. And the more I hear of it, the more I am convinced that I was correct in giving that vote. I think it may be very justly pleaded, that the New England Emigrant Aid Society is in New England—that the members of that company are not citizens of Kansas. That, alone, to my mind, is a sufficient reason why we have no [*380] right to entertain this matter. We have no right to ask *Congress to pay a debt for citizens of Massachusetts or of any other State. In our memorial we are looking after the interests of the people of Kansas, and for no other people. I have no doubt this is a just claim, but it cannot be considered as a debt of this Territory. It has been stated by gentlemen on both sides, that our action upon this will prejudice other claims which the commissioners have passed upon; but I think it can make no difference what construction we give—what views gentlemen here take of those awards—so long as it must remain true that this company's claim cannot be made a debt of the Territory. If we memorialize Congress for anything, let it be for the payment of the debts of the Territory—to pay the claims of our own citizens, make donations for our own railroads, &c. I think it is asking entirely too much of us to interfere in favor of citizens of other States. I have no doubt but that the General Government will

make up this loss; but because it is no claim against Kansas, I am opposed to the adoption of the section.

Mr. GREER. Mr. President, I hope the resolution of the gentleman from Douglas (Mr. J. Blood) will not prevail. It is well understood, sir, that the claim allowed to Mr. Shaler W. Eldridge was allowed near fifty thousand dollars, and his claim has a clear connection with the destruction of this hotel. And it seems to me that this Convention should not take action by which to ask Congress to pay the Emigrant Aid Society until evidence was furnished that the claim of Eldridge is not based upon the same grounds. It would be unjust to ask for payment for the destruction of this hotel to Mr. Eldridge and also to the Emigrant Aid Society. This matter is sufficiently doubtful to me to oppose the adoption of this resolution. And there is another reason which goes still further with me in the same direction: the gentleman from Douglas says that the Emigrant Aid company is a non-resident of the Territory, and that it was the owner of the destroyed property, which destruction was brought about by the act of the General Government. Then, I apprehend, sir, that it is clear that we can have nothing to do with this question; that it is the claim of a non-resident against parties outside of this State, for property destroyed by the act of the General Government, and not by the act of the people of Kansas or any portion of them. Besides, sir, there is a proper tribunal for the adjustment of all claims of this character—the Court of Claims at Washington—that has full and competent jurisdiction of the case. That is the place for them to go; we have nothing to do with it. I do not see the propriety of entering into a controversy or interfering in any way in this controversy between the Emigrant Aid Society and the General Government. I shall, therefore, vote against the adoption of the resolution; and I will say further, that at the proper time I would like to call for the testimony upon which Mr. Eldridge's claim has been allowed.

Mr. HOUSTON. Mr. President, I would like to add another word.

The PRESIDENT. The rule gives no member the privilege of speaking twice till all shall have been heard who may desire to speak. The rule also gives the chairman of the committee the right of closing.

Mr. BLUNT. Mr. President, I voted against laying it on the table, from the fact that I was not aware of its merits and the position it occupied; and I desired that some discussion should be had, to put us in possession of the facts. It appears to me now, from the evidence before us, that these parties claiming a place in our memorial are living outside of the Territory, and that all their interests are beyond our borders; and therefore I shall be compelled to vote against the proposition. I do not think it is our province to legislate for the citizens of Massachusetts, or other parties outside of the Territory of Kansas.

[*381] Mr. HOUSTON. Mr. President, I rise to *make an interrogatory to the Chair. I would inquire whether it would be proper (as gentlemen seem to wish to know the facts) to put these commissioners under oath in reference [to] this matter? As far as I am concerned, I do not see any necessity for it—but others seem desirous of knowing certainly whether those items of loss recited here in the petition of the Aid company were included in Mr. Eldridge's account. I do not understand that they are included, and I would not prejudice the claim of the company for want of that evidence.

The PRESIDENT. It is competent for the gentleman to take any course he sees fit.

Mr. MCDOWELL. Mr. President, I hope time will not be consumed by that unnecessary formality. It does seem to me that we can have nothing at all to do with this claim. If the Emigrant Aid Society feel them aggrieved against the General Government—if they feel that they have sustained a loss by the act of the General Government, they ought to go there for satisfaction and reimbursement. We might just as well take a petition into our memorial for people residing in any other part of the United States, who might pretend to have claims against the General Government. It is not within our province at all. I see by the report of the commissioners of claims that Mr. Eldridge, of Lawrence, was awarded nearly fifty thousand dollars for damages sustained by him. And while the statement does not show what was the basis of that claim of damages, it is well known that it grew out of the destruction of that very Free State Hotel. It seems to me on the face of it, Mr. President, that for a Hotel in Kansas, three years ago—when the Territory was but two years old—that forty-nine thousand dollars, even, is a large amount to claim in damages for its destruction, furniture included. I understand that the Convention has indicated a purpose to memorialize Congress upon the subject of these claims awarded by the commissioners, for money or land for their liquidation, and I think that is sufficient and far enough for us to go. I am opposed to this resolution, and hope the Convention will vote it down, without consuming further time.

Mr. HOUSTON submitted the following:

"*Resolved*, That Judge McClay be allowed to state whether the Eldridge claim includes the hotel of the New England Emigrant Aid Company."

Mr. GREER submitted the following:

"*Resolved*, That the Secretary of the Territory be requested to furnish the Convention with the testimony on which the claim of Shaler W. Eldridge is based."

The PRESIDENT. It is not in order.

Mr. GRIFFITH. Mr. President, while I see no good reason why the Emigrant Aid Society should not be paid for this loss, I think I can see a good reason why the Convention should not proceed in this case. I think it would be travelling outside of our legitimate scope of business.

Mr. INGALLS. Mr. President, I move that the section be referred to the committee on Skullduggery, with instructions to inquire into the facts of the case, and report at their earliest convenience.

The PRESIDENT. The gentleman is informed, that the committee on Skullduggery has been discharged.

Mr. HOUSTON submitted the following modification of his order:

"*Resolved*, That Messrs. McClay and Adams be allowed to make statements in reference to the Eldridge claim."

Mr. STINSON. Mr. President, I move to amend, by adding: "that the said statements be made in the street."

The PRESIDENT. The gentleman from Riley will perceive that the language of his resolution is indefinite.

Mr. GRIFFITH. If I understand the question the Eldridge claim is not now before the Convention.

[*382] *The PRESIDENT. It is not. But it is competent for the Convention to call for evidence as to whether this claim of the Emigrant Aid Society has been allowed or not.

Mr. HOUSTON proposed a further modification of his order; but—

On motion by Mr. McDOWELL, it was laid on the table, and the question recurred on the original section of the committee.

Mr. McDOWELL demanded the yeas and nays, which being ordered and taken resulted—yeas 9, nays 32— as follows:

YEAS—Messrs. J. Blood, N. C. Blood, Hanway, Houston, Preston, Palmer, Simpson, Townsend, Williams—9.

NAYS—Messrs. Burnett, Blunt, Burris, Barton, Crocker, Dutton, Foster, Graham, Griffith, Greer, Hipple, Hubbard, Hoffman, Ingalls, Lillie, Lamb, Middleton, Moore, McDowell, McCune, McClelland, McCullough, Parks, Porter, Ritchie, Ross, Signor, Slough, Stiarwalt, Stinson, Stokes, Wrigley—32.

So the resolution was rejected.

Mr. ROSS. Mr. President, I move to amend the report of the committee by striking out the last resolution.

It is as follows:

"*Resolved*, That the foregoing resolution be appended to and signed with the Constitution of Kansas, and submitted therewith to the people of Kansas, and to the Congress of the United States."

The motion was agreed to, and the resolution was stricken out accordingly—affirmative 17, negative 6.

And so the Memorial was passed and referred for enrollment.

JUDICIARY.

Mr. INGALLS, from the committee on Phraseology and Arrangement, submitted the following:

"The committee on Phraseology and Arrangement having had under consideration the Article entitled Judiciary, respectfully submit the following

REPORT.

Section 1. After 'district courts' read 'probate courts'—after 'inferior'; for 'of' read 'to.'

Sec. 2. Transpose and read: 'The Supreme Court shall consist of one chief justice and two associate justices, who shall be elected by the electors of the State at large, and a majority of whom shall constitute a quorum. And at the first election under this Constitution,' &c.; after 'two years' put a semicolon. In fourth line from bottom strike out 'six' and insert 'two.'

Sec. 3. Before 'habeas corpus' read 'and.' In fifth line strike out 'in' after 'term.'

Condense sections 4 and 5, to read as follows:

'Sec. 4. There shall be appointed by the justices of the supreme court a reporter and clerk of said court, who shall hold their offices two years and whose duties shall be prescribed by law.'

Sec. 6. After words 'four years' read: 'district courts shall be held at such times and places as may be provided by law.'

Sec. 8. For 'one clerk' read 'a clerk'—strike out 'for' before 'two'—strike out 'such as' in last line but one.

Sec. 9. Strike out 'for' before 'two years'—for last clause read, 'He shall be his own clerk, shall hold courts at such times, and receive for compensation such fees as may be prescribed by law.'

Sec. 10. Strike out 'as may be prescribed.'

Sec. 13. Strike out 'according to law.'

Sec. 14. Line nine, strike out 'thereof' after 'pledge,' and before 'judges' in same line, read 'justices or.'

Sec. 15. Line four, strike out 'therein.'

Sec. 15. Strike out 'concurrent' before 'resolution'—strike out 'therein' after 'concur'—strike out 'thereof' in last line.

Sec. 18. Strike out 'and by the authority'—and strike out in last line the words 'of Kansas.'

Sec. 21. Strike out 'thereof' in last line but one after 'judge.'"

SCHEDULES.

Mr. INGALLS, in behalf of the committee on Phraseology and Arrangement submitted the following:

[*383] *"The committee on Phraseology and Arrangement having had under consideration the Article entitled 'Schedule' respectfully submit the following

REPORT.

Sec. 1. Line one, strike out 'evils or'—in line four, strike out 'it.'

Sec. 2. Line one, strike out 'due and'—in lines seven and eight, strike out and read 'executed to the Territory, or any officer thereof, in his official capacity,' &c.

Sec. 4. Read 'the Territory' for 'this Territory.'

Sec. 5. Read 'shall be provided.'

Sec. 8. For 'depending' read 'pending.'

Sec. 9. Read 'First Tuesday in October, A. D. 1859'—strike out all after '1859.'

Sec. 11. Instead of 'for and against such Constitution' read 'at such election'—after 'precincts' strike out the words 'of this Territory'—read 'first Tuesday in December A. D. 1859' in ninth line.

Sec. 20. After 'Territory' read 'and the President and Secretary of this Convention shall constitute.'

Sec. 21. Strike out 'for' after 'provided.'

For Sec. 22. Read: 'The board of State canvassers shall provide for the transmission of authenticated copies of the Constitution to the President of the United States, to the President of the Senate and Speaker of the House of Representatives.'

Sec. 23. 'Upon official information having been by him received of the admission of Kansas into the Union as a State, it shall be the duty of the Governor-elect under the Constitution to proclaim the same, and to convene the Legislature and do all things else necessary to the complete and active organization of the State government.'

Sec. 24. 'The first Legislature shall have no power to make any changes in County lines.'"

These reports go to the President's table, under the standing rule.

JUDICIARY.

On motion by Mr. GRIFFITH, the recommendations of the committee on Phraseology and Arrangement with reference to the Judicary Article, were taken up and concurred in.

The Article was then ordered to be referred for arrangement and enrollment.

Mr. MCDOWELL. Mr. President, have all the standing committees reported?

The PRESIDENT. The Chair is of opinion that they have, with the exception of the committee on Federal Relations.

SCHEDULE.

On motion by Mr. STINSON, the recommendations of the committee on Phraseology and Arrangement with reference to the Schedule were taken up.

The committee's recommendations with reference to sections 1, 2, 4, 5, 8, were severally concurred in.

The committee's recommendation as to section 9—restoring the words "first Tuesday in October," for the day of ratification or rejection of the Constitution, and "the first Tuesday in December" for the first general election under the Constitution, was read by the Secretary.

Mr. MCDOWELL. Mr. President, does the committee recommend the adoption of the section as originally reported by the committee on Schedule?

Mr. INGALLS. That is the intention of the report.

Mr. MCDOWELL. I understood yesterday, that the Convention changed the time of voting on the adoption of the Constitution; and I do not know that it is within the province of the committee on Phraseology and Arrangement to make so material an alteration.

The PRESIDENT. It is within the province of the committee on Phraseology and Arrangement, under a special resolution of the Convention, to recommend any changes, amendments or additions they may see proper. [*384] But it re*mains, of course, for the Convention to approve or reject the recommendation.

Mr. MCDOWELL. I move to reject the recommendation.

Mr. BLUNT. Mr. President, I certainly hope the Convention will adopt the recommendation of the committee on Phraseology. I was opposed to the change made last evening in the time of the elections, from the fact, that I consider that the law which has constituted this Convention, and which prescribes the time and manner of submitting this Constitution, and the time and manner of holding the first election under it, is just as binding upon the Convention in all its provisions, as it is in any one of them. And because I desired to conform strictly to the letter of the law—not to travel beyond it in any particular—I was opposed to this change being made. But the Convention saw proper to make the change. But I think now, upon due reflection, they will see the propriety of adopting the recommendation of the committee, and make the elections conform to the statute which authorized the Convention. Without taking any other consideration than this—the necessity of strict conformity to the law—I shall vote for this recommendation.

Mr. J. BLOOD. Mr. President, I moved to change the report, by substituting November, yesterday, because I believed we would thereby get a more full vote on the Constitution; and because, if this change were not made, we would have too many elections coming near together. But I am not disposed to be tenacious. I would prefer it, if the Convention would agree to put the election of State officers on the same day of the submission. But I think that, in this matter, the law calling the Convention has no more binding force on this act of the body, than the act of a council of the Arapahoe Indians—not a particle more.

Mr. RITCHIE. Mr. President, it does seem to me that there can be a strong argument made why we should go back to the 4th of October, because it is the time fixed by the Legislature. If the Constitution is ratified

by the people—as we all believe it will be—the people are higher than any other authority; and, if I vote for this change, it will be with a view, that the officers of State under this Constitution should be voted for on the same day.

Mr. PRESIDENT WINCHELL. (Mr. Burris in the Chair). Mr. President, this is a matter of serious moment to the whole Constitutional movement. Gentlemen whose judgment is worthy of confidence and consideration differ in regard to the binding force of the act authorizing this Convention. I have always found it a safe rule, sir, where the authorities differ, to take that course with regard to which there can be no danger; and I do not understand any gentleman to say that danger can be likely to result while we adhere to that law. While, on the other hand, there are arguments going to show that there might be a question as to the legality of our proceedings if we were to disregard that law. I have heard no argument against the propriety and practicability of submitting the Constitution on the first Tuesday in October, and therefore I shall vote against the motion to reject the recommendation of the committee.

The motion to reject was lost, on a division; and then—

On motion by Mr. Burris, the Article was passed, as a whole, and referred again for arrangement and enrollment.

EXPENSES OF THE CONVENTION.

Mr. BARTON submitted the following, which was adopted:

"Resolved, That members, officers and other persons having accounts pertaining to this Convention be requested to present the same to the committee on accounts by nine o'clock a. m. tomorrow, and the committee on accounts be instructed to report to the Convention the salary of officers of this body."

The Convention then took a recess till three o'clock, p. m.

[*385] *AFTERNOON SESSION.

Mr. HIPPLE submitted the following, which was adopted:

"Resolved, That Hon. H. B. Denman, William Wiseman, and F. W. Case be admitted to seats within the bar of the House."

INVESTIGATION.

Mr. SLOUGH, from the special committee appointed under his resolution, which was adopted yesterday, to investigate the charge of perjury against Mr. Hutchinson, submitted a report embracing the testimony

(This testimony was subsequently laid on the table, and it has not been furnished the Printer.)

The report is signed—"John P. Slough, A. D. McCune." It closes with the following:

"Resolved, That William Hutchinson, a member of this Convention from the county of Douglas, be expelled therefrom, for the reason that the testimony given in the case, shows him to have been guilty of moral perjury."

Mr. LILLIE, from the same committee, submitted another report to the effect: That "they were of opinion that the accused is not guilty of perjury, as charged, and recommending the submission of the testimony

for such action as the Convention may see proper to take in the premises." This report was signed, "George A. Lillie, James Blood."

Mr. STINSON moved the adoption of Mr. Slough's report.

Mr. GRAHAM. Mr. President, as a member of this committee, I rise for the purpose of giving to the Convention the reason why my name is not attached to either of these reports. My position was, that if either of these parties were willing to report to this Convention, a resolution to expel both Mr. Hubbard and Mr. Hutchinson, I would sign it. I came to that conclusion from the testimony. This being declined, I then proposed to submit the testimony merely. My mind is fully made up. The testimony has convinced me that both are equally guilty.

Mr. HOUSTON submitted the following amendment, by way of substitute for Mr. Slough's report:

"*Resolved*, That while we disapprove of the conduct of Mr. Hutchinson in offering to influence the vote of a member of this Convention, by proposing to give him a lot, still we do not feel that he is a corrupt man, or that he has perjured himself.

Resolved, That the Sergeant-at-Arms be instructed to take all the documents and papers connected with this skullduggery affair, and carefully sink them in the Kaw river."

Mr. FOSTER moved to lay it on the table.

Mr. SLOUGH demanded the yeas and nays, and they were seconded and ordered, and being taken the result was—yeas 20, nays 14—as follows:

YEAS—Messrs. Barton, J. Blood, Foster, Forman, Hipple, Hoffman, Ingalls, Middleton, Moore, McDowell, McCune, McClelland, McCullough, Parks, Ritchie, Slough, Stinson, Stiarwalt, Simpson, Townsend—20.

NAYS—Messrs. Burnett, Blunt, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hanway, Houston, Lillie, Lamb, Preston, Stokes, Williams—14.

So Mr. Houston's amendment was laid on the table, and the question recurred on the adoption of Mr. Slough's report.

Mr. SLOUGH demanded the yeas and nays.

Mr. GRIFFITH. Mr. President, do I understand that a proposition is made to expel a member of this Convention upon a charge of perjury?

The PRESIDENT. The Secretary will read the report again.

The resolution was read.

Mr. GRIFFITH. I approach this matter, sir, without any personal feeling—without likes or dislikes on either side. I wish to be governed by the evidence, regardless of parties and individuals. And it does seem to me, that there is not sufficient evidence there to convince a court of justice that there is perjury in this case. In such a case as this I would have to be governed by the rules that govern the proceedings in a court of justice—to give the advantage of doubt in favor of the person accused. [*386] It is a serious matter, sir, for us to pass such a resolution as *this. The testimony should be unequivocal. But this testimony is not sufficiently definite. I am willing, however, to have the matter brought out fully by lawyers, showing what a court of justice might require in the case.

Mr. SLOUGH. I do not propose to constitute myself the prosecutor in this case. The facts have been presented. They have been read. They, to my mind, and the mind of one other member of this committee, were conclusive of guilt. It seems to me that no discussion is necessary. It is a matter that addresses itself simply to the honest, common-sense intelli-

gence of members. Such being the case, I do not propose to make any remarks upon the subject.

Mr. GRAHAM. Mr. President, I would ask, as a special favor, to be excused from voting when my name shall be called on this question. I cannot consent, with my sense of right and duty, to be the instrument in any way of prosecuting [persecuting] a man for the sake of prosecuting him; and it strikes me that this matter has taken the shape of persecution. I am willing to go for the resolution to expel, if the name of the gentleman from Doniphan (Mr. Hubbard) is embraced in it. But if that cannot be done, I hope the Convention will excuse me.

Mr. SLOUGH. I move that he be excused.

Mr. BLUNT. I object.

The Convention refused to excuse Mr. Graham.

Mr. GRAHAM. Will it still be in order to make a motion to amend?

Mr. SLOUGH. I object.

Mr. GRAHAM. I would state the purpose of the motion. Being required to vote, I wish under the circumstances, to insert into the resolution the name of Mr. Hubbard. I ask the Convention to allow me to submit that amendment.

The PRESIDENT. The amendment of the gentleman will be entertained.

Mr. GRAHAM. I then move to add the name of "E. M. Hubbard."

Mr. BLUNT. Mr. President, I had intended to have passed over this matter in silence. I regret that it has been pressed so far. For, in my judgment, it can result only in a good deal of ill feeling. I shall vote against the expulsion of either of these gentlemen. I think we have given too much importance to this subject. It is "great cry and little wool." The matter has been persistently taken up and pressed upon the consideration of the Convention, I think far more pertinaciously than is becoming the honor and dignity of the body. I am unable to arrive at the conclusion, from any testimony that has been adduced, that there has been any just occasion for a charge of corruption by the offering of inducements in the way of property or money to vote for the capital—and I am equally at a loss, and find it equally difficult to arrive at the conclusion that any person has perjured himself in the case. We all know that there has been a great deal of loose conversation in the hall upon this subject—in reference to corner lots in connection with the location of the capital. And something of this sort may have passed between Mr. Hutchinson and Mr. Hubbard, who, I observe, is a serious kind of man, and it is possible that he may have taken Mr. Hutchinson more seriously than was intended; and, therefore, so far from imputing corruption or perjury to either, I come to the conclusion that both are innocent. I think it has all been got up for the purpose of carrying a point in this Convention. I think it must have been evident to all who have witnessed these proceedings, that they were got up for the purpose of creating a prejudice here against the town of Lawrence as to the point of location for the State capital. For close upon the very heels of this matter it was moved and ordered to go into the selection of the temporary location of the capital. I do not make this as a specific charge—but it does look to me like the whole thing has its origin there. I do not think, sir, that my honor is tarnished in the least, by sitting here with Mr. Hubbard and Mr. Hutchinson, and I think [*387] it would be far best now to bury this *whole thing, and let it slumber. And I do not think that the people of Kansas—after the exhibitions of the gross frauds which we have had in this Territory—will

feel that their honor has been tarnished or their dignity at all compromised by anything that appears in this case. And I think the charge of corruption and fraud here comes with a very bad grace from members of that party from whence have sprung so recently at the Delaware Crossings, and other places in this Territory, the most glaring election frauds on record.

Mr. FOSTER. Mr. President, I would inquire what is the accusation against Mr. Hubbard, that he should be expelled? There has been no reason assigned for inserting his name in the resolution.

Mr. BLUNT. Mr. President, I move to lay the whole subject on the table.

Mr. SLOUGH demanded the yeas and nays, which being ordered and taken, resulted—yeas 18, nays 14—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, J. Blood, N. C. Blood, Crocker, Dutton, Griffith, Hanway, Houston, Lillie, Lamb, McCullough, Preston, Stokes, Simpson, Townsend, Williams—18.

NAYS—Messrs. Barton, Foster, Forman, Graham, Hipple, Middleton, Moore, McDowell, McCune, McClelland, Parks, Slough, Stinson, Stiarwalt —14.

So the subject was laid on the table.

Mr. MCDOWELL moved that the testimony reported from both of these investigating committees be printed.

Mr. HOUSTON moved to lay the motion on the table.

Mr. SLOUGH demanded the yeas and nays and they were ordered, and being taken, resulted—yeas 21, nays 14—as follows:

YEAS—Messrs. Burnett, Blunt, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hanway, Houston, Ingalls, Lillie, Lamb, Middleton, McCullough, Preston, Porter, Stokes, Simpson, Townsend, Williams—21.

NAYS—Messrs. Arthur, Barton, Foster, Forman, Hipple, Moore, McDowell, McCune, McClelland, Parks, Ritchie, Slough, Stinson, Stiarwalt —14.

So the subject was laid on the table.

APPORTIONMENT—MEMORIAL—AMENDMENTS—MISCELLANEOUS—ELECTIONS.

Mr. INGALLS. In behalf of the Committee on Phraseology and Arrangement, submitted the following:

The Committee on Phraseology and Arrangement having had under consideration the articles entitled "Apportionment," "Memorial," "Amendments and Miscellaneous," and "Elections," respectfully submit the following report:

APPORTIONMENT.

Section 1, line 1st. For "permanent" read "future."

Sec. 2, line 1st. For "a permanent apportionment" read "an apportionment." For "1865" read "1866."

Sec. 3. After "divided" read "into election districts, and the Representative and Senators shall be," &c.

"13th District. Morris, Chase and Butler, two Representatives, and one Senator."

"14th District. Arrapahoe, Godfrey, Greenwood, Hunter, Wilson, Dorn and McGee, one Representative."

MEMORIAL.

1st Resolution, line 2. Strike out "be and." In last line strike out "in the State."

3d Resolution. Read, "That Congress be further requested to pass an act granting all the swamp lands," &c.

4th Resolution. Read "That Congress be further requested to pass an act appropriating," &c.

5th Resolution. Strike out "of this State" after "Legislature." Strike out "by law" after "provision."

Append an additional section to read as follows:

"*Resolved*, That it is the desire of the people to be admitted into the Union with this Constitution."

AMENDMENTS AND MISCELLANEOUS.

Strike out the Homestead clause, and read as follows: "The Legislature shall pass a liberal Homestead law."

[*388] *ELECTIONS.

For section 2 read as follows:

"General elections shall be held annually on the Tuesday succeeding the first Monday in November. Township elections shall be held on the first Tuesday in April, until otherwise provided by law."

Suffrage, section 1. Strike out the words "at such election," in the last line.

Sec. 2. Strike out "at any election" in two places.

Sec. 3. Read "the State" for "this State."

Sec. 5. Transpose and read: "Every person who shall have given or offered a bribe to procure his election, shall be disqualified from holding," &c.

Sec. 6. For "go out of this State" read "go out of the State." Strike out the words "in this State" in the last line.

On motion of Mr. BURRIS, the consideration of the committee's recommendation with reference to the article on elections and electors, was taken up.

The committee's recommendations with reference to sections 1, 2 and 3, having been read—

Mr. BLUNT. Mr. President, is an amendment to this section in order at this time?

The PRESIDENT (Mr. Griffith in the Chair). The ruling of the Chair has been to go through the report first.

The report having been passed—

Mr. BLUNT. I now move to reconsider the vote adopting the third section. I will state the object briefly. It is for the purpose of re-instating the word "such" before "soldier," as it originally stood in the report—second line from the bottom of the section.

Sec. 3. No soldier, seaman or marine in the army or navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State in consequence of being stationed within the same, nor shall any soldier, seaman or marine have the right to vote.

I am perfectly satisfied that no person who is a soldier, seaman or marine, can have a residence and be entitled to vote by virtue of being stationed at any point. But there might be persons connected with the army or navy, who were born and reared in the State, and who have had a

residence in the State, and have all their interests in the State, and the section as it now stands would cut them off entirely from the right of suffrage. The section applies also to the exclusion of all seamen in the merchant marine service, and so all merchant sailors would be disfranchised. The insertion of the word "such" would cover this ground, so as only to prohibit soldiers and marines quartered in the State.

The Convention refused to reconsider the section.

REGISTRATION OF VOTERS.

Mr. BURRIS. Mr. President, I desire to offer the following additional section:

"Sec. —. The Legislature shall pass such laws as may be necessary for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established."

Mr. SLOUGH. I move to lay it on the table.

Mr. BURRIS. It is to prevent fraudulent voting. I demand the yeas and nays.

They were ordered, and being taken, resulted—yeas 13, nays 25—as follows:

YEAS—Messrs. Barton, Foster, Graham, Greer, Hipple, Hubbard, Hoffman, Moore, McDowell, McCune, Slough, Stinson, Stiarwalt—13.

NAYS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Forman, Hutchinson, Hanway, Houston, Ingalls, Lamb, Middleton, McCullough, Preston, Parks, Porter, Ritchie, Signor, Stokes, Simpson, Townsend, Williams—25.

So the motion was lost, and the question recurred on the section.

Mr. BURRIS. I merely wish to state, in explanation of that section, that it is to authorize and require the Legislature to pass a registry law.

A voice. We caught that.

[*389] Mr. BURRIS. A doubt is entertained in the *mind of some whether the Legislature have the right to pass a registry law, unless there is a constitutional provision to authorize it. In order to relieve the case from all doubt, I propose this section.

Mr. SLOUGH demanded the yeas and nays, and they were ordered, and being taken, resulted—yeas 26, nays 15—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Houston, Ingalls, Lamb, Middleton, McCullough, Preston, Ritchie, Signor, Stokes, Simpson, Townsend, Williams, Mr. President—26.

NAYS—Messrs. Barton, Foster, Forman, Hipple, Hubbard, Hoffman, Moore, McDowell, McCune, McClelland, Parks, Porter, Slough, Stinson, Stiarwalt—15.

So the section was adopted.

Mr. J. BLOOD. Mr. President, I propose an amendment. Insert the following after the provision for electors—I do not remember the number. I propose to offer as an amendment to the section specifying the qualifications of electors, and for that purpose I move to reconsider, so as to enable me to offer the following:

"*Provided*, that the Legislature may at any time extend by law the right of suffrage to persons not herein enumerated; but no such law shall be in force until the same shall have been submitted to a vote of the

electors at a general election, and approved by a majority of all the votes cast at such election."

Mr. PRESIDENT WINCHELL (Mr. Griffith in the Chair). It is the second specification in section first.

The motion to reconsider was agreed to—affirmative 17, negative 13.

Mr. WINCHELL. I now move to amend as proposed by the gentleman from Douglas [Mr. J. Blood].

Mr. BURRIS. Mr. President, I trust that will not pass. It seems to me it is nearer right as the section stands. It is extending the right of suffrage to all citizens of the United States, and all foreigners who have declared their intention to become citizens of the United States, and have resided in the State six months next preceding such election—it seems to me that is extending the privilege of the exercise of that franchise far enough—just as far as I desire to go. This additional section provides that the Legislature may pass such laws as may be necessary for ascertaining, by proper proofs, what other persons shall be entitled to this franchise. I am opposed to loading down the Constitution in this way. If it should appear to be necessary, in our future experience, to admit others to the enjoyment of this franchise, it would be competent to change the Constitution for that purpose. And I am confident, sir, that the Constitution will be changed before such a thing will be needed.

Mr. PRESIDENT WINCHELL. Mr. President, I have two reasons for being in favor of the proposed amendment. One is, that it leaves this whole matter, after all, with the people, to determine whether they will or not extend the right of suffrage to persons not here enumerated. And the other is in the fact that we have many native inhabitants of the country—Indians—who are at present not citizens of the United States—not entitled to vote—and who, from time to time, by treaty stipulations, are becoming citizens, under such regulations as might make it a matter of justice to extend to them the right of suffrage. And then I am opposed generally to tying up the hands of the Legislature so that they cannot submit these questions to the people—having no fear that the people will decide what is unjust.

Mr. J. BLOOD. Mr. President, I have but one word to offer in explanation of the motives which prompted me to offer that section. I was in favor of extending the right of suffrage to civilized Indians. There are some, I believe, who should be entitled to vote. But there were others [*390] who objected to admitting *them. And for the sake of accommodating conflicting views, I moved to insert this—that the Legislature may have power to extend suffrage to Indians by submitting the law to the people. I think, by requiring submission, that no evil can grow out of it.

Mr. STINSON. I rise to inquire whether there is not " 'a colored brother' in that wood-pile?"

Mr. J. BLOOD. The Indians, I believe, are sometimes called "colored." It includes all who might be regarded as entitled to the right of suffrage.

Mr. RITCHIE. Mr. President, I move to strike out "ten" and insert "thirty" (days next preceding such election).

Mr. WINCHELL. Mr. President, no amendment can be in order, I apprehend, except it be an amendment to the amendment, till after the amendment of the gentleman from Douglas shall have been disposed of.

Mr. RITCHIE. Then I will offer a few reasons why I am in favor of the amendment of the gentleman from Douglas. I am aware that this is

a delicate question. But inasmuch as there has been only one class of our fellow-beings alluded to as probably asking the right of suffrage, I would call attention to those who are now asking for this right in behalf of those who were the first governors of us all—I mean our wives and our mothers.

Mr. J. BLOOD (interposing). If the gentleman will allow me—it does contemplate that this right may be extended to any class of persons.

Mr. RITCHIE. But I understood the gentleman as referring to the Indians, particularly, and he gave that as the reason why he introduced it. Now, I am in favor of it, because, while it would not cut off the Indian, it would include the African and the female portion of [the] community. Now, sir, I want the indulgence of the House; for if intellect, virtue, propriety, decency, are required in the affairs of government, then the female has the right of suffrage as clearly as the negro or the Indian—or the drunken, illiterate, ignorant Democrat or Republican either. Sir, I believe in universal freedom. I believe in the doctrine of the Declaration of our fathers. I am not here to muddle up these questions. I am in favor of meeting them fairly. And I believe the day is not far distant when the intelligence and virtue of Kansas will be asking this right for all. My God! if I thought we were forever to bow to that Democratic rule—that drunkenness and debauchery in human shape were regular qualifications entitling to the right of the elective franchise, I would be ashamed of my own position.

Mr. BURRIS. Mr. President, I wish to offer one word more. As explained by the gentleman from Shawnee (Mr. Ritchie) this amendment, it seems, goes much farther than to the Indians. Now, if the gentleman from Douglas (Mr. J. Blood) and the gentleman from Osage (Mr. Winchell) are simply in favor of extending suffrage to the Indians, why not say so? Let us incorporate what we mean into the Constitution in plain language. Why attempt to get round it by authorizing the Legislature to include any other class? Why, a corrupt Legislature might provide that, not only Indians and negroes, but boys and girls, females, felons, drunkards, and every class of beings in the State of Kansas should have the right to vote on occasion! Sir, if it is necessary to have a Constitutional restriction here at all, let us know how far it goes. If we want to embrace every class of beings, let us extend the right now. But not leave it to the Legislature. If we are going to leave it to the Legislature, let us strike out the section entirely. What is the object of a Constitution, if it is not to lay down fundamental rules by which the Legislature shall be guided and restricted? Then, if we are disposed to have a Constitutional restriction here—if we are determined to provide in the Constitution the qualifications of electors, let us do it. Let us provide that such and such [*391] persons shall vote, and none others. Sir, I am satis*fied with the section as it is. I would not object to the amendment for the purpose of embracing the particular class indicated in the remarks of the gentleman from Osage; but I am not in favor, whilst professing to authorize the Legislature to extend the right of suffrage to civilized Indians—of authorizing them, at the same time, to extend it to the wild Indians, females, boys, negroes and felons.

Mr. J. BLOOD. Mr. President, the gentleman from Johnson (Mr. Burris) seems to misapprehend the meaning of the section. It is not proposed to leave this power in the hands of the Legislature, but to confide it to the hands of the people. Mr. President, I have confidence in the people of Kansas. I think they are as competent as this Convention is to decide this

question, and I am entirely willing to leave it [at] all times in the hands of a majority of the electors of the State.

Mr. HIPPLE. Mr. President, I submit the following, to come in at the close: *"Provided,* that the right to vote shall never be extended to negroes and mulattoes."

Mr. BURRIS. I move that the whole question be laid on the table.

Mr. Greer demanded the yeas and nays, and the vote stood—yeas 32, nays 11—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, Crocker, Dutton, Foster, Forman, Graham, Greer, Griffith, Hipple, Hubbard, Hoffman, Hanway, Ingalls, Lillie, Lamb, Middleton, Moore, McCune, McClelland, Palmer, Parks, Porter, Ross, Signor, Slough, Stiarwalt, Simpson, Townsend, Williams—32.

NAYS—Messrs. J. Blood, N. C. Blood, Hutchinson, Houston, McDowell, McCullough, Preston, Ritchie, Stinson, Stokes, Mr. President—11.

So the subject was laid on the table.

Mr. GREER. I now move the adoption of the Article as a whole.

Mr. RITCHIE. I desire to propose an amendment to the first section.

Mr. WINCHELL. Before voting on the motion to reconsider, I would like to know what the amendment is.

Mr. RITCHIE. The object is to strike out the word "ten," and insert "thirty," in order that pipe-laying may be made a little more difficult. All those who are not in favor of pipe-laying will vote for any motion to reconsider the first section.

The section was reconsidered. It follows:

"SECTION 1. Every white male citizen of twenty-one years and upwards belonging to either of the following classes—who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he offers to vote, at least ten days next preceding such election, shall be deemed a qualified elector."

Mr. RITCHIE. I now move to insert "thirty" days instead of "ten."

Mr. WINCHELL. I second the motion.

Mr. RITCHIE demanded the yeas and nays, and the vote stood—yeas 31, nays 12—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Lillie, Lamb, Middleton, McClelland, McCullough, Preston, Palmer, Parks, Porter, Ritchie, Ross, Stokes, Simpson, Townsend, Williams, Mr. President—31.

NAYS—Messrs. Barton, Foster, Greer, Hipple, Hubbard, Moore, McDowell, McCune, Signor, Slough, Stinson, Stiarwalt—12.

So the amendment was adopted.

Mr. BLUNT. I move the adoption of the Article as a whole.

Mr. STINSON. I move an additional section—to come in as section first. I will read it:

"No Democrat shall be allowed to vote at any election under this Constitution."

The PRESIDENT. The Chair is compelled to rule the gentleman out of order.

Section 1 was then adopted as amended.

And then, the Article, as amended, was adopted as a whole, and referred for arrangement and enrollment.

[*392] *JUDICIAL.

Mr. INGALLS, from the committee on Phraseology and Arrangement, reported, that, having had under further consideration the Article on "Judiciary," they submit the following:

Section 1. After "law" read "and all courts of record shall have a seal to be used in the authentication of all process."

Sec. 2. In line 6, after "Constitution" read "and every six years thereafter." INGALLS, *Chairman.*

The recommendations were agreed to, and then the Article, as amended, was ordered back to the committee for final enrollment.

ADJOURNMENT SINE DIE.

Mr. HIPPLE submitted the following:

"*Resolved,* That this Convention will adjourn *sine die* on Friday, July 29th, at 12, M."

On motion by Mr. BURRIS, it was laid on the table.

HOMESTEAD.

Mr BLUNT submitted the following:

"*Resolved,* That the committee on Phraseology and Arrangement be instructed to prepare an Article for submitting to a separate vote of the people, for their ratification or rejection, the section in relation to a homestead exemption."

Mr. HOUSTON. I move to lay it on the table.

Mr. BLUNT. I demand the yeas and nays.

The PRESIDENT. The Chair is informed that there are no tally-lists.

The House then divided—affirmative 27, negative 12.

So the resolution was laid on the table.

AMENDMENTS—HOMESTEAD.

On motion by Mr. STINSON, the Convention took up the recommendations of the committee on Phraseology and Arrangement, with reference to the Article on Amendments and Miscellaneous.

The Secretary read the first recommendation, viz: "Strike out the homestead provision, and insert these words: 'The Legislature shall pass a liberal homestead law.'"

The original section follows:

"SEC. 9. A Homestead to the extent of one hundred and sixty acres of farming land, or of one acre within the limits of any incorporated town or city, occupied as a residence by the family of the owner, together with all improvements on the same, shall be exempted from forced sale under any process of law, and shall not be alienated without the joint consent of the husband and wife when that relation exists; but no property shall be exempt from sale for taxes or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon. *Provided;* the provisions of this section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife."

THE PRESIDENT. The Chair is informed by a member of the committee,

that this Article has been previously before the committee on Phraseology and Arrangement, and that it is properly now in their hands simply for arrangement and enrollment.

Mr. INGALLS. Mr. President, I am in possession of the most positive information, both from other members of the committee and the secretary, that the Article on Miscellaneous, which contains the Homestead provision, has been acted on by the committee to-day for the first time. Their action is incorporated in the provision just read.

After some conversation relative to previous action on this subject, confirmatory of this statement—

The PRESIDENT. The Chair is under the necessity of ruling the provision reported as not in order, from the fact, that the same matter has been previously proposed in Convention and rejected.

Mr. J. BLOOD. I believe I offered one similar to that, and it was rejected. And I had intended, when this question came up again, to propose an [*393] amendment, which I will now *read. It covers more ground than the report:

"The Legislature shall pass a liberal homestead law, and a law exempting a reasonable amount of property from seizure and sale on contracts heretofore made."

The PRESIDENT. The gentleman from Douglas is out of order in two ways. It is not in order to introduce new matter without a reconsideration; and in the second place, though his proposition covers more ground than the matter reported from the committee on Phraseology, it does not cover more ground than has been heretofore proposed and rejected.

The Article was then again adopted as a whole, and referred for Arrangement and Enrollment.

AUTHENTICATION OF THE CONSTITUTION.

Mr. McDOWELL submitted the following:

"*Resolved*, That when this Constitution shall be adopted, it shall be authenticated by the President and Secretary of the Convention."

The resolution was adopted.

APPORTIONMENT—PROTEST.

Mr. STINSON. Mr. President, I desire to offer the following protest against the action of the Convention in the apportionment of the State for representative purposes:

"We, the undersigned, members of the Constitutional Convention assembled at Wyandotte, Kansas Territory, on the 5th day of July, 1859, do hereby solemnly protest against the action of this Convention in apportioning the State for Representative purposes. We protest against the action of the majority upon this question because said apportionment is based upon no known rule of representation, and was evidently devised to meet the necessities of a political party and not to secure a full and fair representation to the people—because population has never been consulted in making said apportionment as the basis thereof—because counties antagonistic in interest have been annexed to each other for Representative purposes without the shadow of excuse or reason, save only to secure the triumph of the Republican party, as in the case of Johnson and Wyandotte counties being attached to Douglas county, and in the case of Jackson and Jefferson counties being attached to Shawnee—because the system

of attaching small counties to large ones is a practical disfranchisement of the small counties—because said apportionment is throughout a mere political scheme unworthy the dignity of this Convention.

We further protest against the action of the majority upon this question, in moving the previous question, and thus preventing a full discussion of this important measure.

SAMUEL A. STINSON,	R. C. FOSTER, JR.,
JOHN STIARWALT,	A. D. MCCUNE,
C. B. MCCLELLAND,	EPH. MOORE,
JOHN P. SLOUGH,	E. M. HUBBARD,
W. C. MCDOWELL,	JOHN T. BARTON,
JOHN W. FORMAN,	B. J. WRIGLEY."

Under the rules of the Convention, the Protest lies one day on the table.

MR. HUBBARD'S PROTEST.

On motion by Mr. MCDOWELL, it was ordered that Mr. Hubbard's Protest, submitted yesterday, be now entered upon the journal of the Convention.

APPORTIONMENT.

On motion by Mr. SLOUGH, the recommendations of the committee on Phraseology and Arrangement with reference to the Article on Apportionment, were taken up and concurred in.

Mr. MCDOWELL. Mr. President, I have an additional section which I desire to offer.

The PRESIDENT. The gentleman's additional section will not be in order, because a motion to reconsider this Article has been laid on the table. By unanimous consent it might be in order.

Mr. MCDOWELL. I think this will meet with the general approbation of the body.

A Voice. I object.

The PRESIDENT. The gentleman's amendment will not be in order.

[*394] *Mr. MCDOWELL. I am sorry for it. It's a good one.

After some conversation on the order of business to-morrow in the verification of the several Articles of the Constitution, &c.—in which Mr. Slough and Mr. Winchell participated—

Mr. Meyer's account of two hundred and ninety-five dollars and ninety-four cents was allowed; and then—

The Convention adjourned till to-morrow morning at nine o'clock.

THURSDAY, July 28, 1859.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

The journal of yesterday was read and approved.

ABSENCE.

Mr. WRIGLEY. Mr. President, my colleague (Mr. Hubbard) has been compelled to return home on account of sickness in his family. I ask for him leave of absence.

No objection being made, the leave was granted.

AUDITING AND CERTIFICATION ACCOUNT.

Mr. J. BLOOD. Mr. President, if resolutions are in order, I desire to offer the following:

"*Resolved*, That the President and Sergeant-at-Arms be authorized and instructed to audit and certify all claims against the Territory, growing out of the action of this Convention, not otherwise acted on by this Convention."

The resolution was adopted.

PROTEST.

Mr. STINSON. Mr. President, I offered on yesterday a protest in behalf of several members of this Convention, which was laid upon the table. I ask that it be taken from the table and placed upon the records.

Mr. CROCKER. If in order, I wish the minority report of the Committee on Apportionment to be appended to the motion.

The motion was agreed to.

Mr. STINSON. I move now that the protest and report be entered upon the journal of the Convention.

The motion was agreed to.

THE HOMESTEAD.

Mr. THACHER. Mr. President, I understand there was a resolution offered by the gentleman from Anderson (Mr. Blunt) yesterday, which I wish to move to call from the table. I understand it was so laid, under a misapprehension of the nature of the resolution. I believe it to be one which it is wise and best for us to adopt. I understand it to be a resolution directing the Committee on Phraseology and Arrangement to prepare an article for submission directly to the people, as a separate vote, the question of the homestead. I believe nine-tenths of the people are in favor of it, and I believe it would be wise and just for this Convention to submit that question directly to the people at the time of the adoption of the Constitution. It will necessarily call out a large vote for the Constitution, and induce many men to come out to vote who might otherwise keep away from the polls. I move to take that resolution from the table.

The motion was agreed to, and the resolution was taken up.

Mr. THACHER. Mr. President, I move the adoption of the resolution. It is as follows:

"*Resolved*, That the Committee on Phraseology and Arrangement be instructed to prepare an article for submitting to a separate vote of the people, for their ratification or rejection, the section in Miscellaneous department relating to the Homestead exemption."

Mr. BLUNT. Mr. President, I desire to make a few remarks. I do not propose to discuss the question of a homestead law, for that has been disposed of, but I do think that this Convention should submit this as a separate proposition to the people. The homestead clause as it now stands is not what I desire, because the benefits accruing from it are not to be [*395] obtained *by all classes of persons. But if it is so very popular, as gentlemen upon this floor have asserted, there certainly can be no danger in submitting it to a separate vote. If the people desire it, they will adopt it; but if they do not desire a homestead law, it should not be forced upon them. Leave it as it is, and they will be forced to adopt it, or vote against the whole Constitution for the sake of voting against that

one provision. I desire that the body of this Constitution should be ratified by the people in a large and respectable vote. I happen to know the feeling of the people I represent upon this question of homestead—it having been incorporated in the Leavenworth Constitution, and the matter having been discussed in the election of delegates to this Constitution. I believe if the Constitution, without that homestead clause, were to be submitted to the people, it would be ratified by the people of my county, almost without a dissenting voice. I believe there is nothing in that Constitution, with the exception of that clause, but what will meet their approbation; but I do believe if it is submitted to them with this homestead exemption, in order to defeat that clause in the Constitution, a majority of them will be compelled to vote against the whole instrument. It is only to save the Constitution—that it may be ratified by a large and respectable majority—that I desire this proposition should be submitted to the people in a separate form. No harm would be done by it, and it is attended with neither expense nor difficulty.

Mr. J. BLOOD. Mr. President, I am in favor of a liberal homestead exemption, and believing it just and right that the people should be privileged to vote upon a question of such universal importance as that of a homestead exemption, I favor the proposition of the gentleman from Anderson (Mr. Blunt) to submit the question to a direct vote, separate from the Constitution.

Mr. HOUSTON. Mr. President, I desire to say that we have passed three times on that homestead matter, and I thought we had settled that thing. But now we are asked to take it up again, after it has passed into the hands of the Committee on Phraseology and Arrangement the last time. I am not certain that we have any right to take it up, or whether we can take it up [at] all.

The PRESIDENT. Does the Chair understand the gentleman to make a point of order?

Mr. HOUSTON. Yes, sir.

The PRESIDENT. The Chair would rule that the resolution is in order. The Committee on Phraseology and Arrangement was appointed for the purpose which its name indicates; and this is simply a question of arrangement as to whether it shall appear as an integral part of the Constitution or an independent portion.

Mr. HOUSTON. As I have spoken quite freely on previous occasions, upon this subject, it is not my purpose to enter at large into the discussion of it now. I am one of those men who, having made up their mind that a measure is right, have no disposition to change it. I discriminate between a homestead and an exemption. I regard a homestead measure as a matter of State policy—as just, proper and beneficial. I wish the home of a family to be kept sacred, so that it cannot be invaded by tricks of the law or of trade. Now, sir, this Convention came to a conclusion upon this subject, and are we to get alarmed as to whether our position is correct? Shall we say, at this late hour, that we are afraid this measure will not be sustained? There may be some men who are opposed to the great agricultural interests of the State, who would be willing to see it go into chaos—who might still oppose this measure. There are motives and considerations that operate upon a certain class of men in every community who would like to have this homestead bill so modified that they could run it up or down to suit their conveniences. I have taken my position firmly, and I shall still vote as I have voted. I believe it is a measure that

will build up the State and improve and beautify it; and I don't believe it will affect the vote on the Constitution.

[*396] *Mr. GRIFFITH. Mr. President, in advocating the submission of this section to a separate vote of the people, I do not abate one jot of my attachment to the homestead principle, I am clearly committed at home and on this floor in favor of a liberal homestead law; and I approve the section adopted by this Convention. But while I approve, I am not clear that a majority of the voters of the county, which I in part represent, approve, or that the voters of the whole Territory approve. Let the section, then, be submitted. If approved it will hold its place in the Constitution. I also favor submission as a compromise. Some approve the section. I am willing to give them an opportunity to vote against it without being obliged to withhold their support from the Constitution. I favor this also for the especial relief of our Democratic friends. If they wish to make opposition to this homestead law, let us meet them before the people.

Mr. RITCHIE. Mr. President, it seems to me, sir, that this body should maintain some character for integrity and dignity, and in order to sustain the dignity of this body, I am opposed [to] the manner of taking up a measure to-day and repealing it to-morrow. The argument offered by the gentleman from Douglas (Mr. Thacher) shows clearly that he is of opinion that nine-tenths of the people would endorse this measure. Why then carry this out from this body, inasmuch as it will be passed unanimously almost? If I believed nine-tenths of the people were in favor of it, I would not want any better argument for it to remain. If I believed a majority of one man was in favor of it I would advocate its retention. I believe in the principle of a majority ruling. Now we have a majority, according to the argument, of nine-tenths, and yet gentlemen are opposed to what will please nine-tenths of the people. I am in favor of this measure because it gives to the people the right of a homestead. God granted this right to the people, and I am in favor of continuing that right to the people. 'Tis plain to be seen, that there are some weak-kneed Republicans here who are not willing to endorse a principle because it is right. Who has not read it in every Republican paper throughout the land, that one of the planks is "A home for the homeless, and no nigger for the niggerless." We have shown ourselves as willing to endorse the principle of a home for the homeless. You desire to act upon policy; but I warn you as Republicans not to make it all policy. I want to see the Republican party take a position upon the right, and all the people will sustain them upon the right. But if all is to be yielded—if nine-tenths must come down because the other tenth won't—I would not give a cent for such Republicanism. If this Constitution were one which would have no opposition, I would not vote for it. It is on account of the opposition to it that I like it.

Mr. STOKES. Mr. President, for the reasons the gentleman (Mr. Ritchie) assigns I shall vote for the resolution. I think if nine-tenths of the people are in favor of it, it would be the means of drawing people to vote for the Constitution.

Mr. GRIFFITH. Mr. President, I do not appreciate the remarks of the gentleman from Shawnee (Mr. Ritchie) in regard to weak-kneed Republicans, I came to this Convention not to look after the interests especially of the Republican party, but to assist in making a Constitution for the whole people, and no insinuation of want of attachment to Republican principles shall deter me from the discharge of my duty in such manner as my poor judgment shall approve. I repeat, sir, that by submitting this section to a vote of the people we yield nothing, and we risk nothing.

Mr. HUTCHINSON. Mr. President, at the time the section now under consideration was adopted by this Convention, I think I voted against it; and giving that vote against a majority of my Republican friends, I did so [*397] because I believed that the provisions of that *homestead clause should be modified. Now we are come down to the last day of the session, and it is impossible to enter into the merits of discussion, as to the principle of the homestead. I believe it to be one of the first rights of the people—equal to the right of jury trial—to possess property. I believe it stands on the same ground with the right to preserve life. I have favored this principle for many years, and I came here determined to do it in this Convention. At the same time, viewing the position we are placed in here to-day—admitting that we have committed a slight error in framing that section as it is—I do not now propose to change it, but am willing to take the advice of those around me, and it may be considered a species of giving down I care not for that, it is time for us to consider this matter well, and if there is no other way but to compromise, even if we compromise principle slightly—I am going to vote in favor of the resolution.

The yeas and nays were demanded on the adoption of the resolution, and being ordered and taken, resulted—yeas 35, nays 8—as follows.

YEAS—Messrs. Arthur, Blunt, Barton, Burris, J. Blood, N. C. Blood, Foster, Forman, Griffith, Hutchinson, Hanway, Hoffman, Ingalls, Lillie, Lamb, Middleton, May, McDowell, McCune, McClelland, McCullough, Preston, Palmer, Porter, Signor, Slough, Stinson, Stiarwalt, Stokes, Simpson, Thacher, Townsend, Wrigley, Williams, Mr. President—35.

NAYS—Messrs. Burnett, Crocker, Dutton, Graham, Greer, Houston, Parks, Ritchie—8.

So the resolution was adopted.

LIST OF MEMBERS.

Mr. MCCLELLAND. Mr. President, I find that the printed list of the names of members of the Convention are incorrect in many respects, therefore I offer the following resolution:

"*Resolved*, That the Sergeant-at-Arms be instructed to get printed three hundred copies of a corrected list of the members and officers of this Convention for the use of the same."

The resolution was adopted.

LIPMAN MEYER.

Mr. MIDDLETON. Mr. President, will remonstrances be in order?

The PRESIDENT. That order is passed; but, no objections being made, the remonstrance will be received. The Secretary will read the remonstrance.

It follows:

"WYANDOTTE, July 28, 1859.

To the President and Members of the Constitutional Convention for the Territory of Kansas:

The subscriber respectfully remonstrates and solemnly protests against the action of your Honorable body upon the bill presented by him for the use of the Convention room. He says that he has been put to a great expense in fitting up the hall, which he otherwise would not have incurred. That assurance was given him that the Convention would allow a reasonable compensation for the use of said hall, according to many precedents.

He also says that the expense of fitting up said hall to be paid in cash,

and that, consequently, payment of scrip, at its present discount, will be very poor remuneration.

He therefore prays your Honorable body to reconsider the action herein before taken upon the matter, and that his bill shall be taken up again into consideration. LIPMAN MEYER."

The PRESIDENT. Under the rules the remonstrance lies upon the table.

Mr. MCDOWELL. Mr. President, on yesterday, when the chairman of the investigating committee reported the testimony taken by them, two minority reports of that committee were read, and there was a motion made and carried to lay the whole subject on the table. I rise for the purpose of moving to take these matters off the table.

The PRESIDENT. The Chair will state that resolutions are the present order.

Mr. MCDOWELL. Such a motion was made by Mr. Thacher just now.

[*398] The PRESIDENT. It was on a question to take *up a resolution. Resolutions are the order now.

Mr. MCDOWELL. I will then offer a resolution.

The PRESIDENT. Under the ruling of the Convention, anything can be reached in the shape of a resolution. The gentleman will prepare his resolution.

ENROLLED COPY OF THE CONSTITUTION.

Mr. J. BLOOD. I offer the following resolution:

"*Resolved*, That the President of this Convention be and he is hereby authorized to have the enrolled Constitution, with the signatures attached, transcribed upon parchment, to be verified by his certificate, and that the same be deposited in the office of the Secretary of State."

Mr. HUTCHINSON. I would simply enquire what is to be done with it before we have a Secretary of State?

Mr. GRAHAM. Is it intended that the members should all be required to sign?

The PRESIDENT. The Chair understands the purport of the resolution to be this: the original, which is here signed by the members of the Convention, shall be copied afterwards upon parchment with the signature, and certified to by the President, and the parchment copy be placed in the office of the Secretary of State.

Mr. BLUNT. I wish to enquire if there was not a resolution passed yesterday, causing it to be certified to by the Secretary also?

The PRESIDENT. The signing by the President and Secretary would not prohibit the signatures of members. The resolution was adopted.

INVESTIGATION.

Mr. MCDOWELL. Mr. President, I offer the following resolution:

"*Resolved*, That the Convention now take up from the table for consideration, the testimony and reports presented by the committee on investigation."

Mr. PRESIDENT, I desire to say a few words in support of this resolution. I think, as the matter now stands before the Convention, very great injustice was done to a very worthy member of this Convention (Mr. Hubbard) and in order to substantiate that proposition, I propose briefly to refer to the history of the whole matter. On motion of my colleague, Judge Parks, a committee was the other day appointed to investigate the

charge that an offer had been made to influence the vote of a member of this Convention in a corrupt way, the offer of a lot in the town of Lawrence. That resolution was adopted and a committee appointed, and that committee reported certain testimony which, by a vote of this Convention, was laid upon the table. In that testimony is set forth that Mr. Hubbard, of Doniphan, swore positively that Mr. Hutchinson, of Douglas, had offered him, as an inducement for him to vote for locating the capital at Lawrence, a lot in the town of Lawrence—that was positively sworn to. Mr. Hutchinson as positively swore that no such offer had been made; leaving the testimony equally balanced; one man had sworn positively in the affirmative, and another in the negative. Afterwards Mr. Hubbard introduced a protest against the action of the Convention, in which protest he recites that Mr. Hutchinson came to him in the Convention, in the presence of two persons—two members—Messrs. Barton and Burnett, and stated to him that he had offered him a lot, but that the question put to him by the investigating committee was, whether he offered lots? Upon that protest Col. Slough introduced a resolution asking for the appointment of a committee to investigate the charge of perjury against Mr. Hutchinson. That resolution was adopted. The committee was appointed. That committee reported the testimony taken, and accompanying that report were two minority reports—Col. Slough offering one, signed by himself and Mr. McCune, of Leavenworth, reciting that Mr. [*399] Hutchinson was guilty of moral *perjury, and asking that the Convention should expel him for that cause. As an amendment to that resolution, Mr. Graham, from Atchison, moved to add the name of Mr. Hubbard, alleging as a reason therefor, that Mr. Hubbard was as guilty as Mr. Hutchinson. At that stage of the proceedings, Mr. Blunt, of Anderson, moved to lay the whole matter upon the table. Thus stands the matter upon the record, casting an imputation upon the character of Mr. Hubbard, which he nor none of his friends had any opportunity to repel, for the motion to lay on the table cut off all debate. In relation to the motion made by the gentleman from Atchison (Mr. Graham) I have to say that no charge was made against Mr. Hubbard, and there was no testimony reported to show that Mr. Hubbard was in any way as guilty as Mr. Hutchinson—to use the language of the gentleman. There was nothing in that testimony to show that Mr. Hubbard had been guilty of anything except a refusal to receive a bribe; and thus an attempt was made by this indirection, without calling upon any committee for an investigation, to stab the character of Mr. Hubbard. I ask only that justice may be done to all parties—that the testimony may be taken from the table, together with the several reports submitted by the minorities, and that this Convention may proceed to take such action as the testimony warrants them in taking.

Mr. THACHER. Mr. President, I sincerely hoped, at this late stage of the session, that this matter would be allowed to slumber; because if I had been in my place when this matter was brought up, I should have felt it incumbent upon me to add the names of two other gentlemen, who stand convicted by testimony and by their own confession, of offering their own votes and other of their associates to make the capital anywhere, in order to carry an important measure. I should have felt it incumbent upon me to have presented their names, as they stand guilty of the charge of the selling of principle to carry measures through this body. I trust this whole matter will be allowed to sleep quietly. The truth is, if we enter into this matter it will extend far wider than we have the time or patience to pur-

sue. And since the Convention in its wisdom has laid it upon the table, I hope the matter will be allowed to rest. If not, I shall feel it my duty to pursue every member with the same strict, even-handed justice. The testimony did criminate Mr. Hubbard more [than] Mr. Hutchinson, and there is other evidence criminating other men.

Mr. STINSON. I would enquire of the gentleman from Douglas the names of those two persons whom he conceives are deeply criminated.

Mr. THACHER. The name of one is Samuel A. Stinson.

Mr. STINSON. I pronounce the assertion here made upon this floor, charging me with corruption, as infamously and wilfully false.

The PRESIDENT. The gentleman is out of order.

Mr. STINSON. I say I have the right to—

The PRESIDENT. The gentleman is not in order.

Mr. STINSON. Allow me to state that when a grave charge is made against my personal character, I have the right to vindicate it.

The PRESIDENT. The gentleman will keep within the rules of decorum.

Mr. STINSON. That is the position in which I stand.

Mr. HIPPLE. Go on, Stinson; go on!

The PRESIDENT. The Sergeant-at-Arms will take notice of any member creating a disturbance. The gentleman will confine himself to the rules in debate.

Mr. STINSON. I desire and design so to do. I will violate no courtesy in debate; but there are times when language which would otherwise be out of order becomes justifiable by the circumstances of the case. The charge is made to shield corruption, to gild villainy, by attempting to [*400] throw an imputation upon the *character of gentlemen who stand upon this floor untainted by any act which should throw a stain upon a name. I have avowed here, that I was willing, for the sake of carrying what I conceived to be a great good to this Territory, to yield a matter which I did not conceive to involve a principle. We came here and found that a majority of this Convention were disposed to vote against the northern boundary being placed upon the Platte river; we believed that northern boundary to be a matter of great importance to the people we represent. We found here certain parties negotiating for the temporary capital of the State, which we conceived to be a matter of a little importance—it makes but little difference to me whether it goes to Lawrence or Topeka. But it does make a great deal of difference whether we acquire millions upon millions of square miles, I apprehend. And when a member gets up here and attempts to cover up villainy—bribery—by alleging that an act which I deem innocent, is corrupt, and branding that act as bribery, when he assumes to add my name to it, I have the right of saying that the charge is false.

The PRESIDENT. The gentleman is not in order in using language of that kind.

Mr. STINSON. I now desire the gentleman from Douglas distinctly to understand me upon this proposition. I desire him to know what I conceive to be the character of a man who is cowardly enough to make such an attack, and rascally enough—

The PRESIDENT. Does the Chair understand the gentleman to make such remarks in reference to a member?

Mr. STINSON. I did, sir.

The PRESIDENT. The gentleman will confine himself—

Mr. STINSON. I will endeavor to do so. But I desire a full investigation of this matter. I have the right to have that investigation made. I have a right to demand that this House shall take action upon this matter, and that right I will maintain. I ask that this resolution be taken from the table. I urge it upon members of this Convention as a matter of personal right; and if this Convention dare expel me, then I will go home feeling that you, and not I, stand here condemned. I claim this a matter of right—as a personal privilege—I ask that this matter be taken from the table and a vote be had upon it with reference to that matter. And in so speaking I speak not for myself, but there are twelve, I think fourteen, good and loyal gentlemen who occupy the same position in relation to this matter that I do; most of whom will beg you to pass upon them the same as I desire you to pass upon me. I have thought that the rights of minorities here have been violated, but I have too much regard for the personal character of members of this Convention to think that they will not deal out even-handed justice even to the minorities. And I now ask it on behalf of all the Democrats upon the floor of this House. And in conclusion I will once again say that the charge of corruption, as far as it reflects upon my character, is literally, maliciously and damnably false.

The PRESIDENT. Order, order. (Using the hammer).

Mr. MCDOWELL. Mr. President—

The PRESIDENT. The Chair will be under the necessity of ruling gentlemen to a strict decorum. Does the Chair understand that the gentleman from Leavenworth desires to speak under the rules?

Mr. MCDOWELL. I desire to make a speech.

The PRESIDENT. Under strict rule?

Mr. MCDOWELL. I expect to call things by their right names. I expect to call a liar a liar, and a coward a coward, and no man will prevent me.

(Several members were at this time on their feet, and passing across the Hall from the right; and others rising and standing in their places).

The PRESIDENT. Gentlemen of the Convention will take their seats. [*401] Members will be seated on both sides. The sergeant-at-arms *will preserve order. The gentleman from Leavenworth will take his seat.

The SERGEANT-AT-ARMS. Gentlemen, take your seats! Go back and take your seats!

Mr. MCDOWELL. Mr. President—

The PRESIDENT. The gentleman will take his seat. The Chair is preserving order and will do so. The Chair will invite the gentleman, when he will be in order, to speak. The Chair enquires of the gentleman if he is desirous of speaking within the rules of order the Chair has laid down?

Mr. MCDOWELL. Yes, sir.

The PRESIDENT. The gentleman, within that limit, will be permitted to proceed.

Mr. MCDOWELL. Mr. President, the remarks of the gentleman from Douglas (Mr. Thacher) implicated me as well as my colleague, who has just taken his seat. I stated before that committee of investigation what I stated upon the floor of this Convention, that I regarded the location of the capital as a very subordinate matter, involving no principle; but that I regarded the acquisition of north territory lying between our present

northern boundary and the Platte River, as a matter of the greatest moment and interest to the future State of Kansas; I had observed to many that inasmuch as a majority of this Convention were opposed to the acquisition of that territory, if enough of that majority would go with the Democratic side of the House to secure the acquisition of that territory, that we would go with them for the location of the Capital. I also offered that proposition upon the floor of this Convention; and that is what the gentleman denounces as corrupt. It does seem to me, Mr. President, that the line of demarkation between that veniality in legislation, and that point where corruption begins, is obvious to any gentleman's moral sense however obtuse it may be. When a gentleman receives a personal benefit, when he receives a pecuniary consideration, when he goes home with something in his pocket as the result of his ignominy, he is guilty of moral turpitude, and he should be branded as a scoundrel. But when a gentleman receives no other consideration than the addition of magnitude and wealth to his State—the acquisition of a boon that makes his State one of the first in the confederacy—it is an assassin-like virtue that would denounce that as bribery. His moral sense I must confess is more acute than my own. I have had no hesitancy in making this avowal; and I stand here to-day reiterating it; and if that is corruption, I will tell the Convention to make the most of it. I invite investigation. I have invited investigation. We swore before the committee without doubt and reservation. We did not attempt to evade the truth because a particular word was put in the singular, and not in the plural, or in the plural and not in the singular. I have invited the Convention to act upon this testimony and I hope they will do it.

Mr. GRIFFITH. Mr. President, I understand that we have almost completed our labors and are nearly ready to adjourn, and I want to know if this personal feeling between members upon the Republican side and the Democratic side, should delay the action of the majority; and for the purpose of testing this matter, I move that the whole matter be laid upon the table.

Mr. SLOUGH. I demand the yeas and nays.

The PRESIDENT. The Chair is a little in doubt with regard to the propriety of laying upon the table a resolution which has for its object the calling from the table of any matter. He would suggest that the proper way would be to vote down or adopt it.

Mr. GRIFFITH. I withdraw the motion.

Mr. BURRIS. I move the previous question.

This demand was seconded by 23 to 6.

The PRESIDENT. The demand for the previous question being sustained, the question will be upon the adoption of the resolution of the gentleman from Leavenworth.

The yeas and nays were demanded, and being ordered and taken, resulted—yeas 16, nays 22—as follows:

[*402] *YEAS—Messrs. Barton, Foster, Forman, Greer, Hipple, Houston, McDowell, McCune, McClelland, Parks, Porter, Ritchie, Slough, Stinson, Stiarwalt, Wrigley—16.

NAYS—Messrs. Arthur, Burnett, Blunt, J. Blood, N. C. Blood, Burris, Crocker, Dutton, Graham, Griffith, Hanway, Ingalls, Lillie, Lamb, Middleton, McCullough, Preston, Stokes, Simpson, Thacher, Townsend, Williams—22.

So the resolution was rejected.

Mr. HOUSTON. Mr. President, I will offer a resolution here:

"*Resolved*, That we exonerate Mr. Hubbard from complicity in the bribery case which has been before this Convention."

A motion was made to lay it on the table.

Mr. BLUNT. Mr. President, I move to amend by including Mr. Hutchinson.

The PRESIDENT. The Chair does not understand that the resolution can be amended while there is a motion pending to lay on the table.

The motion to lay on the table was withdrawn.

Mr. BLUNT. I wish to so amend the resolution that Mr. Hubbard and Mr. Hutchinson are not guilty of corruption to that degree which would demand expulsion.

Mr. SLOUGH. I demand a division of the question.

The PRESIDENT. The motion of the gentleman is not in order; the question is simply upon the amendment of the gentleman from Anderson (Mr. Blunt) as first read and seconded.

Mr. SLOUGH. I demand the yeas and nays.

Mr. BLUNT. The object I had in view is this: "*Resolved*, That it is the sense of this House, that neither Mr. Hubbard nor Mr. Hutchinson are guilty of any act of perjury, fraud or corruption, which would justify expulsion. If the object can be attained by inserting in the resolution the name of Mr. Hutchinson, I am willing. Or, if the Chair will give me time, I will write a resolution which I will offer as a substitute."

Mr. GRIFFITH. Mr. President, I desire to drop a remark or two in connection with this matter. I am not one of those who believe nothing wrong has been done by these gentlemen. I believe that something wrong has been done. But I am not one of those who believe the testimony is not sufficient to warrant us in taking the responsibility to expel any gentleman from this Convention, nor sufficient to warrant us in adopting a resolution of severe censure. I should be willing to have the resolution modified in the manner the gentleman from Anderson (Mr. Blunt) proposes. I hold that these gentlemen have not been as discreet and prudent as they should have been. But I do not see anything to be gained in this thing. I am willing to let the matter rest where it does; and if gentlemen have indulged in conversation across the hall in that which is improper, let them settle their own difficulties, and let not this Convention be involved in it. I was in hopes that we would meet this morning and pass upon the Constitution article by article, but instead of that a subject has been introduced here that has tended to alienate our feelings. I do not fear the influence of gentlemen who desire to make capital; let them have it—all they can get. I am not here to vindicate the Republican party, or the Democratic party. I hold that we are not warranted in thus wasting our time, when we are ready to adjourn, by creating angry discussions. If the gentleman had his proposition here I think I should be ready to move to lay it on the table. I do not yield the floor, because I wish to know what the nature of his resolution is.

Mr. BLUNT. Mr. President, the resolution which I desire to offer I will read:

"*Resolved*, That in the opinion of this Convention, the testimony taken in the case involving the honor and integrity of Messrs. Hutchinson and

Hubbard, is not sufficient to warrant this Convention in expelling the above named gentlemen."

Mr. GRIFFITH (resuming). I do not desire, Mr. President, to make any lengthy remarks upon this question; and in what I shall have to say I [*403] shall endeavor to refrain from using personali*ties. We have just witnessed an exhibition that has tended to remind us of the early history of Kansas. I think gentlemen who have urged this matter should be contented now to let it slumber. It has assumed a character altogether personal. There seems to be a desire on the part of certain members of the House to persecute individuals without any evidence in the case warranting them to pursue a course of action in favor of it. There is nothing that has occurred in this Convention that I regret more than the occurrence this morning. From all I have been able to gather from the testimony I do not believe there has been any case made out that would criminate Mr. Hubbard or Mr. Hutchinson in any way. I believe—as I have always believed—that they were both honest, sincere and honorable gentlemen. I believe especially that Mr. Hubbard is as truthful and honorable a man as there is upon this floor, and I think he has been used as a kind of tool to accomplish a certain purpose in this Convention, and being an honest, unassuming man, he was calculated to be drawn into this difficulty without being aware of its consequences. Too much has been said—too much ink and paper has been wasted—and the time of this Convention has been consumed unnecessarily in giving importance to this matter; and I do think this Convention cannot surely entertain an idea that their honor or integrity is in any [way] affected by it. I am glad to see that a reform in this matter has taken place in Kansas; and particularly gratified to witness the reform that party to which gentlemen on the other side of the House belong, inasmuch as the party which they represent has been connected with all the frauds of this Territory which have been perpetrated upon the people. I think the repentance they now exhibit will be hailed by the people of Kansas as a glorious indication of a good time 'acoming.' I think we had just better square accounts and begin anew. The more ill feeling we create, the more we involve ourselves in difficulties.

Mr. SLOUGH. Mr. President, I rise for the purpose of making an amendment in the shape of a preamble to the substitute offered by the gentleman from Anderson (Mr. Blunt), and it is this: that the testimony taken in the cases of the investigating committees be affixed to the substitute by way of preamble. I propose briefly to state my reasons. The substitute which the gentleman proposes for the conclusion of this matter is based upon the testimony offered; and so that the world may know the data upon which we have arrived at our conclusion—as there is nothing upon the record to show that data—I propose that the testimony itself should be attached by way of preamble. It may be we may come to an erroneous conclusion. There is another ordeal besides that of this Convention that these gentlemen's character have to pass through, and that is the ordeal of the people. And it is the right of these gentlemen—it is due to them—that these facts, as they have been presented, shall go forth to the people, as well as the conclusion of this body. If this resolution is adopted—if this position is true—it seems to me that gentlemen can have no real good, sound or valid objection to the adoption of the preamble I propose. If, however, the facts that have been presented don't justify such a conclusion, it is a matter of right to the people as well as to the parties implicated, that the testimony should be presented to them; and there is a no more

appropriate place for it than right here, by way of preamble, thus: "Whereas the following testimony has been presented to this Convention, therefore, Resolved," in the language of the gentleman's substitute. I ask gentlemen to adopt this preamble.

Mr. BLUNT. Mr. President, I have no disposition to keep this testimony from going to the world, and so I will very kindly and graciously accept the amendment proposed by the gentleman from Leavenworth (Mr. Slough).

Mr. GRIFFITH. I would inquire whether this testimony is not already upon the record of this Convention.

[*404] Mr. SLOUGH. Mr. President, I think I can *answer the gentleman's question. Not only is this testimony not a matter of record, but the reports of the committees made upon it does not appear upon the record of yesterday. There is nothing except to show that resolutions were offered asking for committees of investigation, and that those committees reported without stating what they did report. It is necessary that this testimony should be made part of the report, so that the people may know what its character is.

Mr. BURNETT. I move to indefinitely postpone the resolution and the whole subject.

Mr. SLOUGH. I demand the yeas and nays.

They were ordered, and being taken, resulted—yeas 19, nays 19—as follows:

YEAS—Messrs. Burnett, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Griffith, Hanway, Hoffman, Ingalls, Lamb, Preston, Palmer, Stokes, Simpson, Thacher, Townsend, Williams—19.

NAYS—Messrs. Arthur, Blunt, Barton, Foster, Forman, Greer, Hipple, Houston, May, Moore, McDowell, McCune, McCullough, Porter, Ritchie, Slough, Stinson, Stiarwalt, Wrigley—19.

Mr. KINGMAN, when his name was called, said: "I do not wish to appear upon the record as being here and dodging the question, but as I was absent yesterday I could not vote intelligently, and I wish to be excused from voting."

The PRESIDENT. The motion to indefinitely postpone is carried.

Mr. STINSON. Mr. President, I desire to offer the following resolution:

"*Resolved*, That a committee of five be appointed by the President, to investigate the charge made by the member from Douglas against two members of this Convention, and that said committee be instructed to report at 3 o'clock this afternoon."

Mr. THACHER. Mr. President, I made no charge against the gentleman from Leavenworth, or anywhere else. I simply adverted to the evidence that has been placed upon the file. And now, that this matter is a little cooled off, I will advert to the arguments which have been suggested with respect to it. This whole matter rose out of a desire to criminate the gentleman from Douglas (Mr. Hutchinson) because he was charged with offering a lot to carry a certain measure—to secure the location of the capital at Lawrence. But it is held by gentlemen that this is an indifferent question, and they had the right to offer the entire vote they had in their control for the votes they needed—because the capital question was an utterly indifferent thing. They offered to give or sell their votes—I don't care whether they use the right words or not—we come back to the direct proposition to give a certain number of votes,

provided they could carry another proposition in which there was a principle involved. In other words, as they now explain it, they offered to sell or give upon a question in which there was no principle involved, to buy votes for a measure in which there was a principle involved. The charge against my colleague is, that he offered to pay a lot where there was no principle involved; instead of a lot gentlemen say they offered votes. If x-y, in algebraic language—if you offered what you considered an equivalent, for votes to acquire this Southern Nebraska territory, what position does it leave you in? I say if this evidence proves anything, it proves that you offered to bribe us to sacrifice our votes upon a question of principle for your votes, upon a question in which there was no principle, as you say. You cannot plead "not guilty" to this proposition. It is there by your own confession, gentlemen, you stand in this awkward predicament, and no angry words will allow you to escape from it. You stand before the country as trying to bribe us by a gift of the capital for a certain number of votes, to get the boundary question settled as you want it. It stands out, clear and unmistakable. You complain of my colleague, because he offered a lot to buy a vote upon a question, whilst you offered to sell a number of votes to carry your measure. In other words: if my colleague had offered you a vote, there would be no crimination; but, in-
[*405] *stead of a vote, he offered a lot, and therefore he stands criminated. You say if man does not go home with an equivalent—with something in his pocket—for which he has sold the vote his constituents reposed in him, he is not criminated; but if he has offered in market a vote—offered to barter the trust that his constituents reposed in him—he has not sacrificed anything! On the other hand, if your position proves anything, it proves my colleague offering a bribe in a case where there was no principle involved, and you attempt to make a crime out of it. I trust gentlemen will not get angry at me about it. I did not place you there; the facts, as they have gone upon the record, place you there. When gentlemen talk about assassins, stabs, &c., &c., it strikes me they make a great mistake. I refer simply to the evidence, and that shows that a large number proposed to go *en masse* for Lawrence, if—gentlemen will remember that "if" is a very valuable word in Shakespeare—if the Douglas delegation would vote for the Platte river boundary. It was an attempt to bribe that delegation, because we held the location of that capital very dear. We wanted to see it located at Lawrence, but we were willing to allow the people to pass upon it. I perceive that some of my friends cherish bitterness upon that score. I do not. I say that to every candid, generous, reflecting mind—to every legal mind—the evidence carries but this proposition. No talk about bribes or stabs can wipe away the record which you yourselves have made. You ought not to blame me. You try to make a distinction between tweedle-dum and tweedle-dee.

"Sharp optics, indeed, it takes, I ween,
To see things that cannot be seen."

When my colleague offered a lot to carry through a question in which there was no principle, gentlemen say he did so at the sacrifice and loss of honor; but when they offer votes to carry a measure, it is a different thing. I have no hard feelings, and I wish none. Things had been pushed far enough. My own sense of justice had been violated long enough with reference to an attempt to fasten down upon one of my colleagues the charge of corruption. You were trying to pull the mote out of your brother's eye, but did not see the beam in your own. I thought it was best to say so. I believe so. The evidence is there (pointing to the Reporter's

desk), and it will go [to] the people of Kansas; and that evidence will be this: the Democratic party offered to sell their entire vote, to carry votes for the boundary line, and they were repulsed. This is the testimony, gentlemen, in a nut-shell. I wish to say, in conclusion, that I see there is some hard feelings manifested here, but that I have none with regard to anything or any gentlemen present. The evidence is already before us, and I don't think there is any evidence sufficient to justify any severe censure. I am willing the record should be held up to the light, and let the people pronounce upon it.

Mr. STIARWALT. Mr. President, gentlemen have forgotten that the last proposition—the one offered by Col. Slough—was not whether he (Mr. Hutchinson) offered to buy a vote or not, it was this: he had sworn he did not, and the other swore he did. There was the question: the last instance was a case of perjury (alleged) not whether these gentlemen have exchanged their votes upon any question. It is not whether or not he offered a lot in Lawrence for a vote; it is because he swore he did not, and the other gentleman swears he did. He then afterwards comes up and says he did. The question rests right there.

Mr. GRIFFITH. Mr. President, if the two gentlemen from Leavenworth, after hearing the explanation of the gentleman from Douglas (Mr. Thacher) will not accept of it, I am bound to vote for the resolution. I think they demand nothing but what is their right, but it does not seem to me that when the explanation is made by the gentleman from Douglas, they should insist upon it. I would ask them if they do.

Mr. STINSON. We do.

Mr. BURRIS. Mr. President, I feel disposed to let the gentlemen have [*406] an investigating *committee to look into any matter or any charges that may have been preferred against them, but as I understand it, there is no charge preferred against any one. I have not heard any charge, and the gentleman from Douglas stated he had made none. I am sure there is no charge against any gentleman. If there was, I should feel disposed to allow an investigating committee, but to my mind there is no charge, and I therefore move [to] lay the resolution on the table.

Mr. STINSON. Will the gentleman withdraw for a moment?

Mr. BURRIS. Certainly.

Mr. STINSON. The position I occupy is simply this: that although no charge may have been made—I do not know what you call it—it has been stated that we were equally guilty with a man who had attempted to bribe another with the offer of a lot as a direct compensation to secure votes. I do not know what it means, but to my common understanding, it means we are guilty of bribery; and all I ask is, that the Convention will investigate that matter; and I shall insist upon a committee for that purpose.

Mr. BLUNT. Mr. President, I am at a loss to know what this committee has got to do if raised. There has been no charge preferred against any member upon this floor, that I know of for this committee to investigate. I understand that the gentleman from Douglas (Mr. Thacher) merely draws his conclusions from the testimony presented. He has made no charge, and inasmuch as the testimony which the gentleman from Douglas bases his remarks upon to be spread before the world, it is for the people, in committee of the whole, to determine who offered a bribe, and who did not.

A motion was made to lay the resolution on the table.

Mr. STINSON demanded the yeas and nays, and they were ordered, and being taken, resulted—yeas 26, nays 18—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Hutchinson, Hanway, Ingalls, Kingman, Lillie, Lamb, Middleton, May, McCullough, Preston, Porter, Signor, Stokes, Simpson, Thacher, Townsend, Williams—26.

NAYS—Messrs. Barton, Foster, Forman, Greer, Griffith, Hipple, Houston, Moore, McDowell, McCune, McClelland, Palmer, Parks, Ritchie, Slough, Stinson, Stiarwalt, Wrigley—18.

So the resolution was laid on the table.[1]

PRINTING AND DISTRIBUTING OF THE CONSTITUTION.

Mr. HUTCHINSON. Mr. President, I offer the following resolutions:

"*Resolved,* That twenty thousand copies of the new Constitution to be submitted to the people on the first Tuesday of October next, together with the resolutions, be printed for gratuitous distribution among the qualified electors of Kansas, and that the chairman of the committee on printing be authorized to issue scrip for printing the same.

Resolved, That the chairman of the committee on printing be instructed to send four hundred copies of the above Constitution to each member of this Convention, whose duty it shall be to distribute them among the people."

Mr. HUTCHINSON. Mr. President, it has been suggested to me that there should be an amendment to the resolution, providing for a certain number of copies in the German language. I propose to include five thousand copies in German. I propose to add the following:

"*Resolved,* That five thousand copies of the Constitution be printed in German, for distribution among the qualified voters."

Mr. GRIFFITH. It occurs to me that that would be more than necessary. Are there so many German voters in the Territory?

Mr. HUTCHINSON. I believe there are.

Mr. GRIFFITH. Then I have no objection.

The resolution, as modified, was then adopted.

[*407] *WESTERN BOUNDARY.

Mr. GREER submitted the following:

"*Resolved,* That the committee on phraseology and arrangement be instructed to recommend that the words 'twenty-third' in the eighth line from the bottom of the preamble to the bill of rights, be stricken out, and the words 'twenty-fifth' be inserted in their place." (Having reference to the meridian of the western boundary of the State).

Mr. WRIGLEY. I desire to offer an amendment.

The PRESIDENT. The Chair is of the opinion that the resolution of the gentleman is out of order. A motion to reconsider that has been made and laid on the table, which cuts off further action, unless by general consent.

Mr. BURRIS. I object.

ALLOWANCE TO THE SECRETARY.

Mr. INGALLS submitted the following, which was adopted:

"*Resolved,* That the Secretary of the Convention be allowed thirty days after adjournment, with the usual pay, for the purpose of completing the journals, preparing copies of the Constitution, and closing up the business of the session."

[1] NOTE.—Mr. Hutchinson made an explanation of the matter in a letter to Mr. F. G. Adams in 1898. See 7 Kan. Hist. Col., 409.

VERIFICATION.

The PRESIDENT. The Chair learns that the Constitution, as it has been arranged under the supervision of the committee on phraseology and arrangement, has been printed and will be at once delivered by the messengers; and he suggests that it would be better economy of time, perhaps, to defer this miscellaneous business, and proceed at once to the verification of the Constitution.

Mr. KINGMAN submitted the following:

"*Resolved*, That this Convention will now proceed to consider the several articles of the Constitution, for the purpose of verifying the same, and thereupon it is ordered that during said reading no amendments shall be in order."

Mr. STINSON. Mr. President, is it contemplated by that to cut off all amendments?

The PRESIDENT. It is in the power of the Convention to control its own proceedings. If the resolution is adopted, no amendment can be made during the reading.

Mr. STINSON. It seems to me, if amendments are to be made, now is the time. But, as I understand it, the resolution utterly precludes amendment, and all we have to do is to stay here in our places while the reading goes on, and see whether the type is correct.

The resolution was adopted.

Mr. INGALLS. Mr. President, on behalf of the committee on phraseology and arrangement, I now return and submit the several articles of the Constitution, which have been referred to that committee for arrangement and enrollment.

(He submitted a printed copy of the Constitution.)

The PRESIDENT. During the reading, members are requested to dispense with conversation in the hall, and the Sergeant-at-Arms will see that the same order is observed in the lobbies.

The ordinance chapter having been read—

Mr. INGALLS. Mr. President, this copy still has many errors.

Mr. SLOUGH. I would suggest the propriety of referring it to a select committee, to consist of the chairman of the committee on phraseology and printing and the President of the Convention.

Mr. KINGMAN. I second the motion, and propose to add Col. Slough to the committee.

The motion was agreed to; and so the Constitution was referred again for correction of the enrollment, to Messrs. Ingalls, Ross, Winchell and Slough.

Two further reports from the committee on accounts (the accounts of the printer and Mr. Meyer) were disposed of, and then—

The Convention took a recess till 3 o'clock, P. M.

[*408] *AFTERNOON SESSION.

PREAMBLE AND BILL OF RIGHTS.

Mr. INGALLS, from the select committee appointed yesterday to collate and correct the printed by the engrossed copy, reported a revised copy of the Preamble and Bill of Rights of the Constitution, and on his motion the proceedings in verification were resumed.

The Preamble and Bill of Rights having been read through by the Secretary—

Mr. J. BLOOD. Mr. President, will a motion to amend be now in order?

The PRESIDENT. The Chair will entertain the preliminary motion.

Mr. J. BLOOD. I move to amend, in the 5th section, by striking out the words "persons of every condition," and inserting these words: "all cases in law."

The PRESIDENT. Has not that been moved and rejected? If the Chair is not mistaken, that motion was made by Mr. McDowell.

Mr. STINSON. That was a motion to strike out, merely. I propose to amend the amendment by adding "and State courts."

Mr. J. BLOOD. I do not think that is necessary. I do not propose to debate the question. I presume every member of the Convention sees as well as I do the propriety of the amendment.

Mr. WRIGLEY. Mr. President, I desire to say, that in my judgment, to strike out and insert these words would in no respect alter the sense of the section. The matter has already been before the Convention, and its practical workings are pretty well understood. Perhaps it was intended by the majority—indeed it has not been denied—that this was intended to extend the right of trial by jury to fugitive slaves in this State, in defiance of the laws and Constitution of the United States. It occurs to me that to make the substitution here, as the gentleman proposes, would in no respect change the sense of the section, for the question would arise in the trial of a case where the owner was attempting to capture a fugitive, whether it is a case at law. In my judgment it would be a case at law clearly. So the right of trial by jury would extend to the fugitive; and this leaves the section liable to all the objections to it as it now stands. I would move that the words be stricken out without any substitution, so that the section would read simply—"The right of trial by jury shall be inviolate."

The PRESIDENT. Gentlemen are too fast. The Chair will entertain the preliminary motion, which is to reconsider the section.

Mr. J. BLOOD. I move to reconsider the vote adopting the 5th section.

The section was reconsidered. It is as follows:

"Sec. 5. The right of trial by jury shall be inviolate, and extend to persons of every condition; but a jury trial may be waived by the parties in all cases, in the manner prescribed by law."

Mr. J. BLOOD. I now move to amend in the manner proposed.

The PRESIDENT. The motion is not in order. Precisely the same motion has been made by the gentleman from Leavenworth (Mr. McDowell) and voted down.

Mr. J. BLOOD. Then I move to strike out the balance of the section after the word "inviolate."

Mr. STINSON. I second the motion.

The motion prevailed, and the words were accordingly stricken out.

On motion by Mr. BURRIS, the section, as amended, was passed.

THE WESTERN BOUNDARY.

Mr. MAY. Mr. President, I move to reconsider the Preamble.

The PRESIDENT. The Chair is of the opinion that it cannot be done without unanimous consent. It will be so taken, without objection.

Mr. MAY. I wish to move to reconsider to enable me to move to strike out the words "twenty-third." If gentlemen will look at it, they [*409] will see that with this boundary we *would have a very small State—with not over thirty-three thousand square miles, if it only goes to the twenty-third degree. If it goes to the twenty-sixth degree, we will have only about seventy-three thousand square miles—about the same area of the State of Iowa—and I think, for the new State, that would be small enough. And then, with the 23d degree, the amount of land that we are asking Congress to devote to us could hardly be found in the State, after the Indian reserves and lands entered are taken out. I am satisfied that if the line runs as now proposed, a great many will oppose the Constitution. I am confident that a majority of my constituents would oppose it on that ground, if on no other. I have just returned here from amongst them, and have conversed freely with the people on the question, and many have told me they would oppose the Constitution with the twenty-third degree for the western boundary. I therefore ask general consent to reconsider.

Mr. STINSON. How many miles back would the twenty-sixth degree carry us?

Mr. MAY. A little over three hundred miles. The twenty-third degree is only one hundred and ninety-six miles.

Mr. BURRIS. Would not the gentleman be willing to say the twenty-fifth degree? I think he is mistaken as to the distance.

Mr. MAY. The gentleman can make the calculation. A degree of longitude is fifty-six miles. The twenty-sixth degree just brings us to the New Mexico line, and leaves out about two hundred miles in the Pike's Peak range.

Mr. J. BLOOD and Mr. HUTCHINSON. I wish the gentleman would insert the twenty-fifth.

Mr. MAY. Well, I will say the twenty-fifth. (Agreed, agreed.)

The Preamble was now reconsidered. It is as follows:

"We, the people of Kansas, grateful to Almighty God for our civil and religious privileges, in order to insure the full enjoyment of our rights as American citizens, do ordain and establish this Constitution of the State of Kansas, with the following boundaries, to-wit: Beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same, thence running west on said parallel to the twenty-third meridian of longitude west from Washington, thence north on said meridian to the fortieth parallel of north latitude, thence east of the said parallel to the western boundary of the State of Missouri, thence south with the western boundary of said State to the place of beginning."

Mr. MAY. I now propose to strike out the words "twenty-third," and insert in lieu thereof the words "twenty-fifth."

The amendment was adopted.

Mr. WRIGLEY. Mr. President, I propose the following:

"That the boundaries reported in the preamble be so altered that the western boundary shall precisely coincide with the boundary fixed by law in the Act of Congress approved March, 1854, organizing the Territories of Kansas and Nebraska."

The PRESIDENT. The proposition is out of order. The reconsideration was for a specific purpose.

The Preamble, as amended, was now again passed.

PERSONAL EXPLANATION.

Mr. McDOWELL. Mr. President, I rise to a personal explanation. Recognizing personally the duty devolved upon me as a member of this Convention, to observe its rules, and all other wholesome rules of decorum, I wish to conform to my notions of propriety by making now this statement. This morning, in a momentary feeling of excitement—justified, as I then thought, and still think, by a desire to notice a charge made against my character—I violated one of our rules in defying the order of an officer of this Convention. For that violation of the rules, I deem it my duty [*410] *to apologize to the Convention. While I do that, however, I must be understood as not retracting a syllable of the remark I made to Mr. Thacher.

The PRESIDENT. The gentleman should avoid using names in debate.

Mr. McDOWELL. The gentleman from Douglas.

On motion by Mr. GRIFFITH, the Ordinance, Preamble and Bill of Rights were now finally passed and ordered to enrollment.

The PRESIDENT. The select committee will be able to report upon the collation of the first Article in the course of an hour.

On motion by Mr. SIMPSON, the Convention took a recess of one hour.

The President resumed the Chair at the expiration of the recess.

AMENDMENT OF THE RULES—TWO-THIRDS' RULE.

Mr. GRAHAM offered the following:

"No portion of the Constitution, as adopted, shall be reconsidered nor any rule suspended, except by the vote of two-thirds of the members elected to this Convention."

Mr. STINSON. Mr. President, I hope that will not pass. I see no necessity for it; and certainly this is no time to take advantage in that way of those desirous of amendment.

Mr. GRAHAM. I introduced this for the purpose of removing a doubt on the minds of some, as to whether it does not properly require two-thirds to suspend a rule. I think it does.

Mr. WRIGLEY. Mr. President, I do not wish to say anything but to express the hope that the Convention will not adopt this rule. I think I see a disposition on all sides to so arrange this Constitution, as in their judgment will make it satisfactory to the people and secure our admission into the Union. I, for one, feel an earnest desire that this Convention should adopt an acceptable Constitution, and I believe that but a few changes are necessary to make it so. Let us then confer together in a friendly manner and make these changes, and not seek to cut them off by the adoption of a two-thirds rule.

Mr. GRIFFITH. Mr. President, I concur heartily in the last remark of the gentleman from Doniphan. If his amendments have merit, they will undoubtedly commend themselves even to three-fourths of the body. I am in favor of this amendment of the rules. It will save time. Perhaps every member will have something new to introduce. It will discourage the introduction of doubtful matter. Amendments really necessary cannot fail to commend themselves to two-thirds of the body.

Mr. WRIGLEY. For instance, there may be a good many changes suggested by members, not of a partisan character. I will name one—the reinstating of the right of waiver of the trial by jury. It strikes me, that

the want of such a provision will be felt in many cases of assault and battery before a justice of the peace. But such a change might not commend itself to two-thirds.

Mr. GRIFFITH. I see no good reason yet for opposing the rule.

Mr. PRESIDENT WINCHELL (Mr. Townsend in the chair). Mr. President, I am surprised that gentlemen should go against the adoption of this rule. It is a rule common to all parliamentary bodies. It should have prevailed here from the first; and it has been the opinion of some that it did prevail. No such rule, however, stands on the record. If ever a rule of this kind is necessary, it is in the last moments of a session, when every topic has been discussed and decided upon, and the minds of members have become relaxed, and they have ceased to guard vigilantly against those influences of which interested individuals would be most likely to take advantage. These are times when new propositions of a striking character are brought up, and when we would be most liable to permit changes to be made which may be afterwards regretted. Inasmuch as the rule proposes nothing but what is usual, it seems to me that every member [*411] *ought to be in favor of it—it will tend so much to expedite business.

Mr. MCDOWELL. Mr. President, that reasoning may be good. The rule may be applicable to all deliberative bodies. But I think there is no occasion now for its adoption here. I wish to state, that I came here with a desire and design to help to make a Constitution that would be acceptable to the whole people of Kansas—a Constitution about which there should be no controversy as to its acceptance when submitted to people. But there are now provisions in it that I think ought to be slightly amended, and I think there is a feeling favorable to these amendments—so that gives me hopes that we shall yet have a Constitution that will be satisfactory to the people—that will receive their sanction—and in relation to which there will be no factious opposition. I do not think any more discussion is contemplated. I do not think any new proposition will be sprung. I think all the desire for amendments is confined to changes in some of the sections in such particulars as have been already before us. It will be recollected that some of the sections have been hurried through. We desire to ask the Convention to make some slight alterations. They have already made some changes that have been highly satisfactory to this side of the House, and, as I trust they will be, to the whole people. And if these changes to which I refer cannot be made by a majority, they probably cannot be made at all. I do hope, that in the spirit of kindness and conciliation this amendment to the rules will be voted down; and that any member may submit his amendments as heretofore, and if a majority see fit, they may be carried.

Mr. PRESIDENT WINCHELL. I do not desire to make a speech, sir. But it is very evident from the remarks of the gentleman from Leavenworth, that he does not wish us to see that he understands this opposition. He says the object is to amend only slightly. But in truth, there is in contemplation over there amendments of very serious importance, and which will be carried if gentlemen are not guarded. He alludes to amendments already made and the general satisfaction with which they are received. Sir, I apprehend that this also is a mistake. I do not myself recognize the beneficent character of some of the amendments that have been made since the reconsideration by the majority began to be permitted. And there is danger in this. I give my Republican friends great credit for having so well enforced and sustained the principles in this body. They have

achieved some advantages for freedom, which I [1]propose neither to give away, nor to permit those who have fought us so strenuously throughout the session, to come in now and secure equal advantages with ourselves.

Mr. HOUSTON. Mr. President, the last argument of the gentleman from Osage, I regard as nonsensical. It must be admitted that there are measures in this instrument not as sound as they ought to be, and he is afraid to risk them under the ordeal of a majority. I do not so much lack confidence in the Republican party. If there is anything which the party has adopted that is wrong and ought to be changed—I do not see that there is any such thing—but if there is, the change should be made. I regard it as a reflection upon the Republican party to admit with the gentleman that we are afraid of the influence and the ingenuity which others may wield over us. He says the two-thirds rule is a parliamentary law; but in the former part of the session I recollect that he declared that the authority vested in this body was above all law and legislation.

Mr. WINCHELL (interrupting). I suppose we are not above our own rules. That is all that is meant by parliamentary law.

Mr. HOUSTON. I confess that I do not very well understand parliamentary arrangements. But I am not afraid of the influences to which the gentleman referred. I think every man here is wide awake. I am not afraid that any proposition will be smuggled in here unawares. Then do [*412] not let us tie up our hands by this rule. Let *us not be afraid of the minority. I cannot concede so much to the other side. I respect them for their talent and ingenuity, but I am not afraid of their votes or their arguments. I am willing to hear them, or go with them, as far as they may go right.

Mr. GRAHAM. Mr. President, in introducing this matter here, I did it honestly and fairly, and I regard it as justified by my experience in the workings of deliberative bodies. This body has now carefully gone through this instrument, and we are satisfied that we have arrived at just conclusions—that no principle which we have established ought to be touched or altered. We have seen from the opening of the Convention, that we have on the other side of the House a wily enemy—whence many propositions have come for engrafting matter, not only for the purpose of defeating the Constitution itself, but intended for the destruction of the Republican party in Kansas. I was also induced to offer this, because I have seen our Democratic friends going round amongst us in great kindness, and making professions, the sincerity of which I am bound to respect. I want to stay here only till we get through. I want only what is right. I want no advantage that does not belong to the right. I do not want to be upraided by my constituents, that this Constitution has anything in it which we did not put there. I want the thing gone through with fairly. I do not want light from that side. I say, watch them. Do not trust them.

Mr. STIARWALT. Mr. President, it has been but a short time since a member of this House (Mr. May) told us, that he had just come from amongst his constituents, and they had told him, that for one provision which they disapproved they would vote down this Constitution; and thereupon an amendment was made on his motion by less than a majority of two-thirds, which, if he is honest, as I believe he is, has saved the Constitution. Therefore I think this two-thirds rule comes with a bad grace from the party of the gentleman whose proposition could not have been passed under it. But I tell that gentleman that unless other changes are made, his

[1]NOTE.—The original reads "do not propose," etc. Evidently a mistake which is cured by omitting "do not."

constituents will still vote down this Constitution. I was sorry to hear the gentleman from Atchison (Mr. Graham) say that the Democratic members had been going round electioneering amongst the Republican members, because I remembered the fact, that caucussing has been the watchword with the majority in this Convention all the time. Sir, there has been engrafted upon this Constitution some very objectionable matter, which it would be well to get out. I came here to make a Constitution such as I believe the people want, and what I believe they do not want I will oppose with all my might. I want a Constitution that will be a credit to ourselves, acceptable to the people and acceptable to Congress. But, as it now stands, neither the people nor Congress will look at it.

Mr. THACHER. It is now over a week since we concluded our arduous labors and referred them to the committee on Phraseology and Arrangement. A special committee was appointed to report what should be the action of the Convention upon matter referred from the committee on Phraseology, and that committee reported that amendments at that stage could only be made by reconsideration. One member of that committee, of great candor and merit, advised that we had better make no report till the debates were through. But now eight days have elapsed, and here we are debating whether we shall say stop, or, keep on. The parliamentary two-thirds rule is a settled principle, and it is a wonder how it came to be lost sight of here. This amendment of our rules is only recurring to the well-established, time-honored two-thirds rule. And unless we adopt it we shall not get through before Saturday. It is the only wise and just rule that can be adopted to expedite our business.

[*413] The proposition was adopted on a division*—affirmative 21, negative 17—and accordingly it stands as one of the rules of the Convention.

THE PRINTED COPY.

Mr. INGALLS. Mr. President, in behalf of the select committee on that subject, from an examination of the printed copy of the Constitution submitted this morning it was found to need revision. Since that, it has been carefully collated, marked and sent to the printer, and the corrected copy will probably be ready late this evening or early to-morrow morning.

EXECUTIVE.

On motion by Mr. THACHER, the Convention resumed the work of verification, and the first Article—Executive—was read by the Secretary.

The Article being approved, was then ordered to be referred again for enrollment for signature.

LEGISLATIVE.

On motion by Mr. THACHER, the Convention proceeded to verify the engrossed copy of the second Article—Legislative—and it was read by the Secretary.

Mr. ROSS. Mr. President, I move to reconsider the second section to enable me to propose the following additional:

"That the first Legislature shall consist of twenty-five Senators and fifty-two Representatives, and every organized county shall be entitled to at least one Representative."

The Convention refused to reconsider.

Mr. KINGMAN. I am not sure that I understand these first and second sections of the first Article, and the twenty-fifth section of the second—the Legislative—Article. It is prescribed that the Governor's term should

commence on the first Monday in January succeeding his election. In the second section of the first Article, it is provided that "an abstract of the returns of every election, for the officers named in the foregoing section, shall be sealed up and transmitted by the clerks of the boards of canvassers of the several counties, to the Secretary of State, who shall, during the first week of the session, open and publish them in the presence of both Houses of the Legislature in joint convention assembled." And then, in the twenty-fifth section of this second Article, it is provided that "all sessions of the Legislature shall be held at the State Capital, and all regular sessions shall commence annually on the 2d Tuesday of January." So that you cannot ascertain the vote for Governor until after his term is to commence, until after the Legislature shall be in session: for the Secretary of State has to open the returns in their presence.

The PRESIDENT. It would be practicable to make the Governor's term commence later.

Mr. THACHER. We might make the Governor's term to commence on the Wednesday following the second Tuesday.

Mr. BURRIS. Would it not be necessary to change the date of the commencement of the terms of all the State officers? and that being the case, would it not be best to change the time of meeting of the Legislature? I merely make the suggestion.

Mr. BLUNT. Mr. President, I desire to enquire of some gentleman in regard to the effect of this thirteenth section. It reads, "A majority of all the members elected to each House voting in the affirmative, shall be necessary to pass any bill or joint resolution."

It appears to me, that, in certain contingencies which might arise, we are defeating legislation here entirely. I would enquire whether, if in case of absence of members on account of death or sickness, less than a majority of all the members were to pass a bill or joint resolution, it could be regarded as a law?

Mr. KINGMAN. No.

Mr. BLUNT. It seems to me, then, that we are preventing legislation.

Mr. PRESIDENT WINCHELL. Mr. President, that question has been discussed fully, and the conclusion arrived at was, that no less than a majority of all the members elected should pass a bill.

[*414] *With regard to the point suggested by the gentleman from Brown (Mr. Kingman) there seems to be a real difficulty. There is a manifest impropriety in requiring of the Governor to take office immediately upon the commencement of a Legislature, and to make his message at the same time. It seems to me that a later day for the Governor's assumption of office would be better—say March or April—then by the meeting of the next Legislature he would have ample time to prepare himself. I will, at the proper time, move a reconsideration for the purpose of fixing the commencement of the term of the State officers on the 4th day of March.

Mr. HOUSTON. Would there not be an interregnum in the case of the first Governor?

Mr. THACHER. I would ask common consent to put it on the first Wednesday after the second Tuesday in January.

Mr. KINGMAN. The votes for Governor, &c., are to be canvassed by the Secretary of State, during the first week of the session, in the presence of both Houses. If the Legislature does not meet till the second Tuesday,

and the Governor takes office on the second Monday, the Secretary cannot officially know and announce his election in time.

Mr. PRESIDENT WINCHELL. And it often happens that the House is delayed about organization. It seems to me that we should make this matter sure.

Mr. KINGMAN. We should look before we step, as to the first Governor.

Mr. WINCHELL. We might provide that the first Governor should assume office as soon as the State is admitted, when he should immediately call the Legislature together. For the regular and permanent term of the Governor, it is very easy to provide that the term of all the State officers shall commence on the fourth, or as I would prefer, the first Monday in March. Thus the Governor could be prepared with his message, and the State officers with their reports for the meeting of the succeeding Legislature.

Mr. GRIFFITH. Would there not be some difficulty in regard to the reports of the State officers to the past Legislature?

Mr. KINGMAN. The plan suggested by Mr. Winchell takes place at Washington.

Mr. WINCHELL. I make the motion, to change the commencement of the term of State officers from the second Monday in January to the first Monday in March.

Mr. HUTCHINSON. Mr. President, I see an objection to the proposition. This is a government of parties, to a certain extent. We know that one year one party will predominate, and the following year another party may succeed. It has been so under my observation in the State of Iowa. And it is very natural, and even essential, that a Legislature elected in a certain gubernatorial canvass should have the privilege of exercising their functions under that Governor's jurisdiction. It would be unpleasant, for a Republican Legislature, for their session, to clash with the views of a Democratic Governor. Then with reference to the change to the first Monday in March—it might be that a new Governor with opposite views would come in while the Legislature would be in session—recommending other measures of State policy.

Mr. WINCHELL. I do not regard that as a valid objection. In fact, it would seem to me rather an argument in its favor. It might be a good provision against the consequences of fluctuation in the popular judgment. I think, sir, that some such plan as I have suggested might be adopted: or throw out entirely the provision which requires of the State canvassers to canvass the returns in the Legislature. I am not particular. If you will provide that the board of canvassers shall meet in the month of December, and announce the result, I shall be satisfied.

Mr. THACHER. I have a plan, and that is, to refer this to the committee on phraseology, and allow them to arrange the matter for us.

[*415] Mr. WINCHELL. I think we had better do it *here, and let the clerks be at work. I ask the unanimous consent of the Convention to insert the following after the words "Secretary of State" in the second section of the first article:

"Who, with the Lieutenant Governor and Attorney-General, shall constitute a board of State canvassers, whose duty it shall be to meet at the Capital on the second Tuesday of December succeeding each election for

State officers, and canvass the votes for said offices and proclaim the result."

The amendment was taken and adopted, by unanimous consent.

Mr. McDOWELL. I move to reconsider the second section of the Article pending, to enable me to move a reduction of the members of the Legislature, so as to make fifty-one Representatives and twenty-three Senators.

The Convention refused to reconsider.

Mr. HOUSTON. The twenty-third section reads as follows: "The Legislature, in providing for the formation and regulation of common schools, shall make no distinction between the rights of males and females." I would suggest the propriety of striking out the word "common."

There was no second.

The second Article was then ordered to enrollment for signature.

JUDICIAL.

On motion by Mr. THACHER, the hour of adjournment (6 P. M.) was disregarded, and the Convention proceeded to verify the engrossment of the third (the Judicial) Article.

The whole having been read through—

Mr. INGALLS. I offer the following as a substitute for section 2. It has been considered and is recommended by the committee on Phraseology and Arrangement. I ask its adoption by unanimous consent:

"SEC. 2. The Supreme Court shall consist of one chief justice and two associates, whose term of office, after the first, shall be six years each, who shall be elected by the electors of the State at large, and a majority of whom shall constitute a quorum. At the first election, a chief justice shall be chosen for six years, one associate for four years and one for two years."

The engrossed section proposed to be stricken out is as follows:

"SEC. 2. The Supreme Court shall consist of one chief justice, and two associate justices, who shall be elected by the electors of the State at large, and a majority of whom shall constitute a quorum, and at the first election under this Constitution, and every six years thereafter, there shall be chosen a chief justice for the term of six years, one associate justice for the term of four years, and every two years thereafter, except when a chief justice is to be elected, an associate justice shall be elected for six years."

The substitute was taken up and adopted by unanimous consent of the Convention.

The Article was then again adopted and passed, and ordered to final enrollment for signature.

Mr. BLUNT. I move that we proceed to read the 4th and 5th articles. But—

Mr. BURRIS moved adjournment; and accordingly—

The Convention adjourned till to-morrow morning at nine o'clock.

FRIDAY, July 29, 1859.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

The journal of yesterday was read.

EXPENSES OF THE CONVENTION.

Mr. HANWAY. Mr. President, on behalf of the committee I present the following accounts:

"The account of Geo. F. Warren, Sergeant-at-Arms, for postage stamps. The committee recommend that double the amount be paid in scrip.

The account for the building of the railing which forms the bar, for telegraph operator's desk, &c. The committee submit this account without any recommendation.

The account of A. E. Drapier, official reporter of the Convention, for [*416] $648.43 on account *of reporting; also one of $303.12 on same account. Total, $951.55. This amendment of Mr. Drapier, the reporter, is allowed by the Committee on Accounts."

Mr. SLOUGH. Mr. President, I move the reports of the committee be adopted as to all the accounts accompanied by a recommendation.

The motion was agreed to.

Mr. BURRIS. Mr. President, I move that the account which is without a recommendation be referred back to the committee. I think the committee is better prepared to recommend than the Convention to take action.

The motion was agreed to.

THE WYANDOTTE DAILY GAZETTE.

Mr. HUTCHINSON. Mr. President, it may not be strictly in order to introduce the matter that I have in mind in connection with the report just adopted, but I have a statement to make in behalf of the printer, relative to the *Gazette* that has been received here.

The PRESIDENT. Unless objection is made, the gentleman from Douglas (Mr. Hutchinson) will be permitted to make a statement of facts.

Mr. GRIFFITH. I should like to know in regard to what subject.

The PRESIDENT. The subject of the printer. The gentleman will proceed.

Mr. HUTCHINSON. Mr. President, I have learned there is some misunderstanding between members of this Convention, or the Committee on Printing, and the Printer. It will be recollected that on the first day of the session a special committee was appointed for the purpose of proposing some manner of preserving our records. I was chairman of the committee and in that capacity saw the editor, and the substance of the interview I reported the next morning to the Convention to this effect: he would do the work at a certain price per 1,000 ems, and that he would like to supply the members with his daily for one dollar for the session, whether two weeks or four weeks, for each copy. I also stated he expected to receive scrip for the larger part of his work, and he would expect cash for these numbers of his paper, for the purpose of paying off his daily help, as he was obliged to pay them part money as they would not wait for scrip. No further action was taken except to order two additional copies to each member. About that time the Committee on Printing was raised, and as their duties superseding ours, we had nothing more to do with it. The chairman of the Committee on Printing not understanding all that had been said and done, continued to receive those papers; and

the next day or two the number was raised from two to six to each member, by a vote of this body. From that time we have received six copies each. I understand now he states the fact that he is expecting cash for the numbers of papers so distributed. Members don't seem to understand it; and here I leave the facts, as far as I understand them.

Mr. KINGMAN. Mr. President, I move that we proceed to consider the Constitution where we left off yesterday.

Mr. INGALLS. Mr. President, I am informed by the chairman of the Committee on Printing that the printed copy of the Constitution, as revised by the committee yesterday afternoon, will be in the hands of the Convention in a few moments. I think it best to wait for it.

THE WESTERN BOUNDARY.

Mr. RITCHIE. Mr. President, I believe that it is a ruling of the Chair that any member may speak by common consent (and I certainly do not wish to speak without it is with the consent of the whole body); but I desire to say, with regard to the change of the boundary line running west to the line proposed by the gentleman from Atchison (Mr. May) yesterday, to the 25th meridian, since that vote was taken I understand that it has been ascertained that there are valuable mines of iron ore of a rich quality, and some salt springs a little further out; and I think it is necessary now that we should spend a few moments, as we have some leisure, in considering the propriety of throwing our territory a little further west. Now I understand all this difficulty of miners will be [*417] entirely out of *the way, that they will have a nice little territory to themselves. And having listened to the gentleman from Riley (Mr. Houston) so frequently upon the enlargement of our boundaries, I feel inclined this morning to go still another degree; and I believe it is the feeling of this Convention. And to test this matter I propose the change, if I can meet with a second.

The PRESIDENT. The Chair would state that that proposition is already enrolled, and a change would make the necessity for a re-enrollment or an erasure.

Mr. HUTCHINSON. I object.

The PRESIDENT. Objection is made to the proposed change.

Mr. PRESTON. Mr. President, it only changes one word. They might make it a "six" instead of a "five."

The PRESIDENT. Objection is made.

Mr. RITCHIE. I would enquire if the two-thirds rule would not apply in such a case?

The PRESIDENT. It would not apply, from the fact that the boundaries were established upon a vote on which vote a reconsideration was moved and that motion laid on the table.

Mr. RITCHIE. I am afraid that I was not understood, because I have been after the negro so much. I will inform the Convention that the negro is not in this. (Laughter.)

OFFICIAL JOURNAL OF THE CONVENTION.

Mr. HUTCHINSON submitted the following:

"*Resolved*, That on the completion of the official journal of the Convention, the Secretary be requested to deposit the same with the Historical Society of Kansas."

The resolution was withdrawn.

ADJUSTMENT OF ACCOUNTS WITH THE CONVENTION.

Mr. MCCLELLAND submitted the following:

"*Resolved*, That the Sergeant-at-arms of this Convention be allowed the per diem of a member for 30 days after the final adjournment of the body, for arranging all matters growing out of this Convention, not otherwise acted on by the Convention."

Mr. GRIFFITH. Mr. President, I wish to know whether it will take that time to do this business. I am not in favor of voting away the money of the people unnecessarily. If it requires more or less time, I shall be willing to vote for a just compensation. But I wish to know whether it is really necessary for him to occupy 30 days.

The resolution was adopted.

ASSISTANT SERGEANT-AT-ARMS.

Mr. N. C. BLOOD. Mr. President, in making up the per diem and compensation of members and officers of the Convention, the name of the Assistant Sergeant-at-arms (Francis House) was left out by the Committee on Accounts. I move that he be allowed the regular per diem pay for the term of his actual service.

The motion was agreed to, and the order was made accordingly.

CLOSING THE RECORDS, &C.

Mr. THACHER submitted the following:

"*Resolved*, That the President of this Convention be allowed thirty days after adjournment, with usual pay, for the purpose of superintending the closing up of the records, and such other business as the Convention leaves unfinished.

Resolved, That the enrolled and authenticated parchment copies of the Constitution be entrusted to the custody and guardianship of the President of this Convention, to be delivered by the said President to the Governor of the State."

Mr. THACHER. There will be a vast amount of matter connected with the business of this body which will have to be arranged and adjusted after the final adjournment, which, perhaps, no one is better acquainted with than the President.

The PRESIDENT. There is to be but one original authenticated copy of the Constitution.

Mr. THACHER. I accept the modification.

The resolution was adopted.

SIGNATURE.

Mr. LILLIE submitted the following, which was adopted:

[*418] "*Resolved*, That when this Constitution shall *be signed by the members of the Convention the district which they represent shall be designated."

ELECTIONS.

The PRESIDENT. Printed copies of the enrolled Constitution being now in the Hall, the Chair would suggest that the Convention proceed with the verification.

On motion by Mr. THACHER, the fourth article (Elections) was read, approved and ordered to the enrollment for signature.

SUFFRAGE.

On motion by Mr. THACHER, the Convention pursued the verification in the fifth article (Suffrage)—and the same having been read through by the Secretary—

Mr. MCDOWELL. Mr. President, I propose unanimous consent to strike out the last clause of section 3:

"SEC. 3. No soldier, seaman or marine in the army or navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State in consequence of being stationed within the same, nor shall any soldier, seaman or marine have the right to vote."

I propose to strike out the words: "nor shall any soldier, seaman or marine have the right to vote."

Mr. HUTCHINSON. Mr. President, I would suggest to the gentleman from Leavenworth, that there are others desirous of amending this section, having a different view; and if he would modify his motion so as to insert the word "such" before the word "soldier" in this last clause, he would meet that view.

The PRESIDENT. The recollection of the Chair is that motions precisely similar to these have been once voted down by the Convention, and therefore they cannot be renewed, except by general consent.

Mr. GRAHAM. I object.

The article was then passed, and ordered to the enrollment.

EDUCATION.

The Convention pursued the verification in the sixth article (Education) and the same having been read through—

Mr. J. BLOOD. Mr. President, there is an omission of date in the 3d section:

"SEC. 3. The proceeds of all lands that have been, or may be, granted by the United States to the State, for the support of schools, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of public lands among the several States of the Union, approved A. D. 1841, and all estates of persons dying without will or heir, and such per cent. as may be granted by Congress, on the sale of land in this State, and shall be a perpetual school fund, which shall not be diminished, but the interest of which, together with all the rents of the lands, and such other means as the Legislature may provide, by tax or otherwise, shall be inviolably appropriated to the support of common schools."

The words "September fourth" are omitted in reference to the act of 1841. If it is necessary I will make a motion to correct it.

The PRESIDENT. It can be done by general consent, without a motion.

Mr. J. BLOOD. It seems to me that there is an improper arrangement of the words in the third section in the clause—"and all estates of persons dying without will or heir." If the words "heir" and "will" were transposed so as to read: "all persons dying without heir or will," it would be a much better use of language.

Mr. INGALLS. This clause, as it stood in the section as originally reported, read in this way: "and all estates of deceased persons who may have died without leaving a will or heir." It was changed, and passed the committee as it now stands after considerable deliberation.

Mr. J. BLOOD. I think the change is desirable.

The PRESIDENT. If there is no objection the words will be transposed.

The article was then ordered to the final enrollment.

[*419] *PUBLIC INSTITUTIONS.

The Convention pursued the verification in the seventh article—Public Institutions—and it was approved and passed to the enrollment.

MILITIA.

The Convention pursued the verification in the eighth article—Militia—and it was passed to the enrollment.

COUNTY AND TOWNSHIP ORGANIZATION.

The Convention pursued the verification in the ninth article—County and Township Organization—and the same having been read through—

Mr. PRESTON proposed an amendment to section 1—

"SECTION 1. The Legislature shall provide for organizing new counties, locating county seats and changing county lines, but no county seat shall be changed without the consent of a majority of the electors of the county; nor any county organized, nor the lines of any county changed so as to include an area of less than four hundred and thirty-two square miles."

Mr. PRESTON. I move the reconsideration of section 1, to enable me to make a motion to amend by striking out the last two lines, and inserting in their place: "by the Legislature, without a vote of the majority of the voters included within the new county."

Mr. BURRIS. Mr. President, the design of this seems to be to strike out that part of the section which prohibits the Legislature from creating a new county with less than four hundred and thirty-two square miles, or from reducing any county below that. I hope it will not prevail. That provision has been well considered by the Convention. I am opposed to reconsideration unless there is a palpable necessity for amendment. I would not reconsider without such a direct necessity, though I might myself desire an amendment. This question has been fully discussed, and the Convention finally decided to let the matter stand as it does.

The PRESIDENT. Unless the Chair is deceived by recollection, a similar proposition has been rejected by the Convention. If so, it would be out of order.

Mr. MCDOWELL. Mr. President, I move the reconsideration of the first section, for the purpose of enabling me to move to add the following: "and each county shall be divided into as many districts as it has representatives."

The PRESIDENT. That motion has been once laid on the table.

Mr. J. BLOOD. It contemplates the single district system. It contemplates the dividing of each county into representative districts, so that there may be as many districts as there are representatives allowed. I think our population is too sparse to attempt that experiment. The only occasion for any such scheme is to be found in the large cities, when there may be a conflict of interests in different sections and exciting questions growing out of them. For instance, in New York city we find distinct interests—such as the manufacturing, the marine and mercantile interests—that do not harmonize with each other. They can readily run into such a scheme in such a place. But we have nothing to require anything of that sort in our Territory. And such a provision of law would be very difficult of enforcement. I think it will strike the general sense of members

that it ought not to come in here. It is too soon now. There is no occasion for it. It will only give rise to difficulties and misunderstandings; and it will be almost impossible to carry it out.

Mr. GRAHAM. I hope it will be taken by common consent.

Mr. J. BLOOD. I shall most certainly object.

The article was passed and ordered to the enrollment.

APPORTIONMENT.

The Convention proceeded to the verification of the tenth article—Apportionment—and the same being read through—

Mr. HOUSTON suggested a reduction of the number of representatives—[*420] dropping one in *Pottawottamie, in Atchison and Brown, &c.

Mr. BURRIS corrected the clerical error, inserting "and" between "Chase' and "Butler."

Mr. ROSS. Mr. President, there is a very grave error in the second section:

"SEC. 2. It shall be the duty of the first Legislature to make an apportionment, based upon the census ordered by the last Legislative Assembly of the Territory; and a new apportionment shall be made in the year 1866, and every five years thereafter, based upon the census of the preceding year."

I move to amend so that the census for the first apportionment to be made by the first Legislature, shall be the national census of 1860. We should certainly have the latest census for the basis of a new apportionment.

Mr. GRAHAM. I do not see how that can be reached. If we come into the Union early in 1860, we shall be too late to be included in the national census.

The PRESIDENT. That census will not be taken here unless Kansas is in the Union on the 1st of January, 1860.

The amendment was not passed.

WYANDOT.

The PRESIDENT. The Chair would call attention to the spelling of the word "Wyanandot." He would suggest (as the orthography is various) the spelling of the word as in the Statutes of the United States.

Mr. KINGMAN. What is the local spelling?

The PRESIDENT. The local spelling is two t's without the e. Two t's with the e is the French mode. One t is the English mode. Two t's without the e is no mode at all. The spelling of the word in the Statutes will be adopted in the enrollment.

The article was then ordered to the enrollment.

FINANCE AND TAXATION.

The Convention proceeded with the verification in the eleventh article—Finance and Taxation—and the same having been read through—

The PRESIDENT. The words "head of a" were stricken out of the first section by the committee on phraseology and arrangement.

"SECTION 1. The Legislature shall provide for a uniform and equal rate of assessment and taxation; but all property used exclusively for State, county, municipal, literary, educational, scientific, religious, benevolent and

charitable purposes, and personal property to the amount of at least two hundred dollars for each head of a family, shall be exempted from taxation."

Mr. ROSS. Those words were inserted by a vote of the Convention.

The PRESIDENT. The action of the Convention was also had upon the recommendation of the committee to strike them out.

They were ordered to be stricken out.

Mr. KINGMAN. In section 1, the word "and" between "benevolent" and "charitable," should be changed to "or," I think. But if anybody objects, I back down.

Mr. BARTON. Mr. President, I ask unanimous consent to amend the 5th section:

"SECTION 5. For the purpose of defraying extraordinary expenses and making public improvements, the State may contract public debts; but such debts shall never, in the aggregate, exceed one million dollars, except as hereinafter provided. Every such debt shall be authorized by law for some purpose specified therein, and the vote of a majority of all the members elected to each House, to be taken by the yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal thereof, when it shall become due; and shall specifically appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed nor the taxes postponed or diminished until the interest and principal of such debt shall have been wholly paid."

[*421] *After the word "and" in the fourteenth line, I wish to insert these words: "to create a sinking fund for the payment of." I ask that these words be inserted by general consent.

The PRESIDENT. The Chair would suggest, whether the language as it stands does not give that power to the Legislature.

Mr. KINGMAN. I have no doubt at all about it.

The PRESIDENT. Unless some further expression is had, the amendment will not be made.

Mr. GRIFFITH. I move to reconsider section five, for the purpose of inserting the words.

Mr. BURRIS. On examination of the section, it seems to me that the Legislature would have full power to create a sinking fund, as it now stands. I think it is about as complete and perfect as we can get it, and I shall oppose all unnecessary reconsiderations.

The Convention refused to reconsider.

And then the article was ordered to enrollment.

CORPORATIONS.

The Convention proceeded to the verification of the twelfth article—Corporations—and the same having been read through—

Mr. INGALLS. Mr. President, I notice an error—an omission to correct an error—in the last line but one. Instead of reading—

"SECTION 6. The term corporation, as used in this article, shall be construed to include all associations and joint stock companies having any of the powers and privileges not possessed by individuals or partnerships and all corporations shall have the right to sue, and shall be subject to be sued by their corporate name in all courts of competent jurisdiction, the same as natural persons."

It was corrected by the committee so as to read—

"SECTION 6. The term corporations, as used in this article, shall include all associations and joint stock companies having powers and privileges not possessed by individuals or partnerships; and all corporations may sue and be sued in their corporate name."

Mr. J. BLOOD. Will this provision affect any corporation authorized by the Territorial Legislature?

The PRESIDENT. There is a provision in the Schedule against that.

The proper correction was ordered.

Mr. MCDOWELL. Mr. President, I ask for the reconsideration of the first section, for amendment. As it stands now it reads—

"SECTION 1. The Legislature shall pass no special act conferring corporate powers. Corporations may be created under general laws; but all such laws may be amended or repealed."

I wish to have added these words: "but no amendment of a city charter shall become operative until after it shall have been submitted and ratified by a vote of the people of such city." The reason I make this amendment is this: I would provide against the case of one or two men going to the Legislature, as they did from Leavenworth last winter, and changing the charter of the city without the approbation of the people. Inasmuch as a city charter is organic law, the people should pass upon it. I think it but justice that this right of the people should be respected—and I ask the amendment on that ground.

Mr. J. BLOOD. I would like to inquire for information, whether such a provision could apply to a general law creating corporations? whether the Legislature would have power to amend the charter of a city that had taken corporate powers under a general law? and if so, whether it would apply to all corporate bodies in the State?

Mr. MCDOWELL. I suppose it would, to a certain extent. When the Legislature shall pass a general city corporation law, they will have to classify cities by population; and the submission would be made to cities of a particular grade. I see nothing objectionable in the proposition. I suppose the interests of similar populations would be similar.

[*422] Mr. J. BLOOD. That might be. But sup*pose they were not—and one should approve, and another disapprove—the question is, whether the aggregate vote would govern, or whether the vote of each separate corporation should govern in their individual cases.

Mr. THACHER. It strikes me that we had better not reconsider. Too many difficulties spring up in our pathway. I do not think we should distrust the Legislature too much—as though we were thinking and fearing all the time, that they might do some ungenerous or unhandsome thing.

The motion to reconsider was rejected.

And then the Article was ordered to the enrollment.

BANKS AND CURRENCY.

The Convention proceeded to the verification of the thirteenth Article —Banks and Currency—and the same having been read through—

Mr. THACHER. I ask unanimous consent to strike out section 7:

"SEC. 7. No banking institution shall issue circulating notes of a less denomination than five dollars."

Mr. INGALLS. I object.

Mr. BURNETT. Mr. President, I ask a reconsideration of section 7, for the purpose of striking out "five," and inserting "one" in its place.

The motion was rejected—affirmative 20, negative 15—two-thirds not voting in the affirmative.

Mr. BURRIS. Mr. President, I call attention to the second section:

"SEC. 2. All banking laws shall require, as collateral security for the redemption of the circulating notes of any bank, organized under their provisions, a deposit with the auditor of the State, of the interest paying bonds of the several States or of the United States, at the cash rates of the New York stock exchange, to an amount equal to the amount of circulating notes which said bank shall be authorized to issue, and a cash deposit in its vaults of ten per cent of said amount of circulating notes; and the State auditor shall register and countersign no more circulating bills of any bank, than the cash value of such bonds when deposited."

I would suggest the propriety of adding to the last clause these words: "and no bills shall be put in circulation, except such as shall have been countersigned by the Auditor."

Mr. KINGMAN. The law requires that.

Mr. BURRIS. But does the Constitution? It seems to me that the Constitution here would simply prohibit the auditor from countersigning bills beyond the amount deposited. And the question is, whether the Legislature might not authorize the circulation of bills not countersigned?

Mr. J. BLOOD. They are not allowed to issue bills beyond the value of the stock deposited.

Mr. PRESIDENT WINCHELL (Mr. Townsend in the Chair). Mr. President, it strikes me that there is force in this. No provision should be neglected, that can be made yet more secure. I recollect that there is such a provision in the Territorial law; and if it can give additional security, it certainly should be inserted here. It seems to me that there might be the case of a bank going on and issuing bills not countersigned; and it is not to be expected that the people will always examine closely to see the signature of the auditor. It seems to me that the amendment is a just and prudent one, and that it would be wisdom to adopt that safeguard.

The motion to reconsider was lost—affirmative 15, negative 12—two-thirds not voting in the affirmative.

Mr. GRIFFITH proposed "such bank" instead of "said bank."

It was rejected.

Mr. BLUNT. Mr. President, I move to reconsider, in order to enable me to move to strike out the 8th section:

[*423] *"SEC. 8. No banking law shall be in force until the same shall have been submitted to a vote of the electors of the State at some general election, and approved by a majority of all the votes cast at such election."

There are two reasons why I propose this: In the first place, we have certainly thrown around the Legislature all the possible safeguards and securities in relation to banks and banking—and after we have done this, and after the people have elected a Legislature to make laws under this Constitution, I do not see any propriety in continually submitting their work to the people for approval. There is no more reason for submission in this, than there might be in almost any other case. We have certainly thrown safeguards enough around this question. Hence I am opposed to referring this matter back to the people any more than any other subject of

legislation. And the other objection is this: It is required that such a banking bill, in order to become a law, shall receive a majority of all the votes cast at some general election. It is well known, that perhaps one-half the electors would vote neither for nor against the bill. People generally do not inform themselves much about banking. And so the law would go by default: and although a majority of those voting on the question might be in favor of it, still it is not a law, because it did not receive a majority of all the votes cast.

The Convention refused to reconsider; and then the Article was ordered to enrollment.

AMENDMENTS.

The Convention proceeded to the verification of the fourteenth Article —Amendments—and the same having been read through—

Mr. STINSON. Mr. President, I would inquire of the chairman of the committee on Phraseology, what has become of the rhetorical flourish prefixed to the first section by the gentleman from Brown? (Mr. Kingman.)

Mr. INGALLS. I am unable to tell.

Mr. KINGMAN. I recollect prefixing to the first section a general statement, to the effect, that the people have the right at all times to change their form of government. But I am not strenuous about it. It was a simple declaration of a good principle; and the object was to keep the principle there, whether we departed from it in practice or not.

Mr. INGALLS. I recollect that such a proposition was adopted. But it never came before the committee on Phraseology and Arrangement.

Mr. KINGMAN. Let it die.

(This suffix by Mr. Kingman was adopted in committee of the whole, but, on the 25th, it was rejected in Convention.)

Mr. GRIFFITH. Mr. President, I perceive that a slight alteration is necessary in the twelfth and thirteenth lines of the first section:

"SEC. 1. Propositions for the amendment of this Constitution may be made by either branch of the Legislature; and if two-thirds of all the members elected to each House shall concur therein, such proposed amendments, together with the ayes and noes, shall be entered on the journal; and the Secretary of State shall cause the same to be published in at least one newspaper in each county of the State where a newspaper is published, for three months preceding the next election for Senators and Representatives, at which time the same shall be submitted to the electors, for their approval or rejection, and if a majority of the electors voting on said amendments, at said election, shall adopt such amendments, the same shall become a part of the Constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately, and not more than three propositions to amend shall be submitted at the same election."

I understand that our Senators will be elected every two years. I propose to strike out, in the twelfth and thirteenth lines, the words [*424] *"Senators and" so that the proposition to amend the Constitution need not lie over three years.

The words were stricken out by unanimous consent.

The Article was then ordered to the enrollment.

MISCELLANEOUS—HOMESTEAD.

The Convention proceeded to the verification of the fifteenth Article—Miscellaneous—and the same having been read through—

Mr. J. BLOOD. Mr. President, I have understood, that this ninth section was to be referred to the people for a separate vote:

"SEC. 9. A homestead to the extent of one hundred and sixty acres of farming land, or of one acre within the limits of any incorporated town or city, occupied as a residence by the family of the owner, together with all improvements on the same, shall be exempted from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife when that relation exists; but no property shall be exempt from sale for taxes or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon. *Provided,* the provisions of this section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife."

Mr. INGALLS. That will be read as section twenty-five in the Schedule.

Mr. J. BLOOD. My understanding was that it was to be submitted for a separate vote, and I move to reconsider, for the purpose of striking out this section, and inserting the submission of the homestead exemption in the form of a resolution, which, by the indulgence of the Chair, I will read:

"*Resolved,* That at the same time when the votes of the electors shall be taken for the adoption or rejection of this Constitution, an additional section, in the following words, viz: A homestead to the extent of one hundred and sixty acres of farming land, or of one acre within the limits of any incorporated town or city, occupied as a residence by the family of the owner, together with all improvements on the same, shall be exempted from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife when that relation exists—but no property shall be exempt from sale for taxes or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon: *Provided,* The provisions of this section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife.

To be submitted to the electors of this State for adoption or rejection, in the form following to wit: A separate ballot may be given by every person having the right to vote for the adoption of this Constitution, to be deposited in a separate box. Upon the ballots given for the adoption of said separate amendment, shall be written and printed, or partly written and partly printed, the words: "Homestead exemption; Yes." And upon the ballots given against the adoption of said separate amendment: "Homestead exemption; No." And on such ballots shall be written or printed the words "Homestead exemption," in such manner that such words shall appear on the outside of such ballots when folded. If at the said election a majority of all the votes given for and against the said separate amendment shall contain the words, "Homestead exemption; Yes,"—then the said separate amendment, after the adoption of this Constitution, shall be a separate section, to be numbered section 9 of the Article on Miscellaneous of this Constitution, in full force and effect."

The Convention refused to reconsider.

Mr. KINGMAN. Mr. President, there is a suggestion growing out of the peculiar phraseology of the sixth section:

[*425] "SEC. 6. The Legislature shall provide for *the protection of

the rights of women, married and single, in acquiring and possessing property, real, personal and mixed, separate and apart from the husband, and shall also provide for the equal rights of women in the protection of their children."

I have no objection to the principle of the section, but I am positively unable to understand how it is that a *single woman* should be said to have property separate and apart from *her husband*. I move for unanimous consent to strike out the words "married or single," as these two classes comprehend all the ladies with whom I am acquainted.

The words were stricken out.

Mr. KINGMAN. I wish the Convention would consent to reconsider section 7:

"SEC. 7. The Legislature may reduce the salaries of officers, who shall neglect the performance of any legal duty."

It puts the salaries of officers so under the control of the Legislature as to render them liable to become subjects of political punishment. I move to reconsider the Article, for the purpose of striking out this section.

The Convention refused to reconsider.

Mr. HUTCHINSON. Mr. President, the 8th section, referring to the location of the Capital, reads:

"SEC. 8. The temporary seat of government is hereby located at the city of Topeka, county of Shawnee. The first Legislature under this Constitution shall provide by law for submitting the question of the permanent location of the Capital to a popular vote, and a majority of all the votes cast at some general election shall be necessary for such location."

There might be many people in some counties that would be indifferent about this location, and thousands of voters might refuse to cast their votes on the question. I move to reconsider, for the purpose of moving to amend so as to require only a majority of all the votes cast on the Capital question.

The Convention refused to reconsider.

The Article was then ordered to the final enrollment.

SCHEDULE—HOMESTEAD.

The Convention proceeded to the verification of the sixteenth Article—Schedule—and the same having been read through—

The PRESIDENT. The Chair would state, that the provision prepared by the committee on phraseology and arrangement, for submitting the Homestead to a separate vote, should come in here at the close of this Article, as the clerk will read:

"SEC. 25. At the election to be held for the ratification or rejection of this Constitution each elector shall be permitted to vote on the Homestead provision contained in the Article on 'Miscellaneous,' by depositing a ballot inscribed 'For the Homestead,' or 'Against the Homestead;' and if a majority of all the votes cast at said election shall be against said provision, then it shall be stricken from the Constitution."

The section was adopted.

Mr. MAY. Mr. President, in the 14th section:

"SEC. 14. Said judges of election, before entering upon the duties of their office, shall take and subscribe an oath faithfully to discharge their

duties as such. They shall appoint two clerks of election, who shall be sworn by one of said judges faithfully to discharge their duties as such. In the event of a vacancy in the board of judges the same shall be filled by the bystanders."

I move to strike out the words "bystanders" and insert "electors present."

The amendment was taken by consent.

Mr. HIPPLE. What rule is to decide who are electors?

The PRESIDENT. The registry law.

Mr. STINSON. I move to strike out from the 14th section the words "as such," where they occur in the fourth, fifth and eighth lines.

The PRESIDENT. The Chair supposes these are literal transcripts from the Territorial law, and perhaps better not be changed.

[*426] *Mr. BURRIS. I object.

Mr. STINSON. In the fourth section:

"SEC. 4. All laws and parts of laws in force in the Territory, at the time of the acceptance of this Constitution by Congress, not inconsistent with this Constitution, shall continue and remain in full force until they expire, or be repealed."

In the last line insert the word "shall" between "or" and "be."

The amendment was taken by unanimous consent.

Mr. HUTCHINSON. In the 24th section:

"The first Legislature shall have no power to make any change in county lines."

There is more in this section than seems to have been designed to be expressed. We ought to strike out all after the word "power." For, if they have the right to do anything it seems to me they ought to have the power to change county lines, if the people desire. I make that motion.

There was no second.

The Article was then ordered to the enrollment; and so the Constitution was verified and approved.

NO SMOKING.

Mr. MCDOWELL. Mr. President, I rise to a point of order. There is a rule of the Convention to prevent smoking in the Hall. And my colleague here is indulging.

The PRESIDENT. The point is well taken. The Sergeant-at-arms will see that the rule is enforced.

MEMORIAL.

The Convention proceeded to the verification of the Memorial of the Convention of the people of Kansas to the Congress of the United States, and the same having been read through—

Mr. THACHER. I do not understand the object of the last resolution: "*Resolved*, That it is the desire of the people to be admitted into the Union with this Constitution."

Mr. J. BLOOD. I see no propriety in it.

The PRESIDENT. I have seen no precedent for it.

Mr. J. BLOOD. When the Constitution shall have been ratified and sent to Washington—that is an application for admission. I think it can be

hardly necessary to retain this resolution. I do not see any necessity for it, nor any propriety in it. I think it is new and unusual. I propose to reconsider for the purpose of offering the following to take its place:

"We do hereby certify that the foregoing is the Constitution adopted by us in Convention. In testimony whereof we have hereunto set our hands at Wyandotte, the —— day of July, A. D. 1859."

The Convention refused to reconsider.

Mr. J. BLOOD. I suppose it is in order to offer a motion to change the heading of this bill.

The PRESIDENT. It will be in order after it shall have been acted on.

Mr. MCDOWELL. Mr. President, would it not be well to have a resolution there, asking Congress to assume the debts of the Territory?

Mr. MCDOWELL submitted the following:

"*Resolved*, That Congress be further requested to assume the debt of this Territory."

Mr. J. BLOOD. I see no necessity for such a resolution. I think the debts of the Territory are the debts of Congress already.

Mr. BURRIS. If the gentleman from Douglas is correct—and I suppose he is—still I see no impropriety in adding the resolution.

The resolution was adopted by consent.

On the motion of Mr. GRIFFITH (by unanimous consent) the heading of this bill was changed from "Memorial" to "Resolutions."

The PRESIDENT. The Chair would enquire whether the Schedule is an Article of the Constitution. In the Constitution of Minnesota, the Schedule stands alone.

Mr. KINGMAN. So it does in the old Constitution of Kentucky.

The words "article sixteen" were stricken out by unanimous consent.

The Resolutions were then adopted, passed and ordered to the final enrollment.

[*427] *ATTESTING CLAUSE.

Mr. LILLIE submitted the following:

"Done in Convention by Delegates assembled at Wyandot, on the 29th day of July, A. D. 1859, and of the sovereignty and independence of the United States the eighty-third."

Mr. MCDOWELL. A resolution has been passed providing for a mode of authentication. It is in the usual mode, I believe.

The PRESIDENT. The Chair understands the resolution to apply to copies of the Constitution in general—not requiring all the signatures or the general attestation of members.

Mr. STINSON. I would inquire what majority it will require to carry that resolution?

The PRESIDENT. A majority.

Mr. STINSON. I thought that all new matter must be passed by two-thirds?

The PRESIDENT. The gentleman is mistaken. The rule has respect only to reconsiderations and amendments under reconsiderations.

Mr. BURRIS proposed to amend the proposition, by substituting the following:

"Done in Convention at Wyandot, this 29th day of July, A. D. 1859."

Mr. STINSON. Mr. President, it strikes me that this is an integral part of the Constitution; and that in order to adopt it we shall be obliged to reconsider some part of the Constitution—now since we have passed every part of it. If it were not a part of the Constitution, I should call it a resolution, with the Chair. But it seems to me that the attesting clause is as much a part of the Constitution as any other part of the instrument: and that in order to adopt it, it will be necessary to reconsider some part—say the last word—of the Constitution.

The PRESIDENT. The Chair is of opinion, that the resolution in no way affects the Constitution as an amendment.

Mr. STINSON. The ruling of the Chair would amend without reconsidering a portion of the article.

Mr. BURRIS' substitute was agreed to, and so the clause was adopted and passed.

THE LADIES.

Mr. GRIFFITH submitted the following, which was adopted unanimously:

"*Resolved*, That the thanks of this Convention be tendered to the Ladies, who have favored us with their presence during our labors."

CONVENTION RECORDS.

Mr. SIMPSON submitted the following:

"*Resolved*, That the records of this Convention, with the exception of the authenticated copy of the Constitution, be entrusted to the custody and safe keeping of the Secretary of this Convention, to be delivered by him to the Secretary of State on the admission of Kansas into the Union, and placed among the archives of the State."

The resolution was adopted.

At 12 M. the Convention took a recess till 3 P.M.

AFTERNOON SESSION.

The PRESIDENT called the Convention to order at 3 o'clock.

PER DIEM OF THE PRESIDENT.

Mr. N. C. BLOOD. Mr. President, I offer the following resolution:

"*Resolved*, That the President of this Convention, J. M. Winchell, as an officer, be allowed the regular per diem pay as other officers of this body."

The resolution was adopted.

ACKNOWLEDGMENTS.

Mr. ARTHUR. Mr. President, I have a resolution:

"*Resolved*, That the thanks of this Convention be tendered to John A. Martin, as Secretary, and his assistants, A. J. Blanchard, R. J. Hinton and Samuel F. Tappan, and also to George F. Warren, Sergeant-at-Arms, and John M. Funk, Doorkeeper, and their assistants, for the very able and faithful manner in which they have performed the laborious duties of their respective offices."

The resolution was adopted.

Mr. TOWNSEND. Mr. President, I have a resolution which I wish to offer:

[*428] *"WHEREAS, for the third time the people of Kansas, through their chosen representatives, have convened in earnestness and solemnity to build up a bulwark of freedom and popular rights, in the organization of a State government; and whereas, the hour is nigh for the word of parting and the close of our labors; therefore,

Resolved, That the thanks of this Convention are gratefully tendered to the Hon. J. M. Winchell, for the able, determined, impartial and dignified manner in which he has fulfilled the obligations of his arduous position.

Resolved, That the Hon. J. M. Winchell carries with him the gratitude and the kindest wishes of the members of this Convention."

The preamble and resolutions were adopted.

Mr. J. BLOOD. Mr. President, I offer the following:

"*Resolved,* That the thanks of this Convention be respectfully tendered to the Rev. Mr. Davis, who has attended the Convention with his prayers, invoking the blessings of Almighty God upon the labors of this Convention."

The resolution was adopted.

Mr. HUTCHINSON. Mr. President, I have a resolution:

"*Resolved,* That the thanks of the members of this Convention are due the citizens of Wyandot, for the courtesies and hospitalities received at their hands during the session."

The resolution was adopted.

Mr. N. C. BLOOD. Mr. President, I have a report in behalf of the committee on accounts:

Allowing J. R. Parr $60 for putting up railing.

The report was adopted.

PRINTING OF THE OFFICIAL REPORT OF PROCEEDINGS AND DEBATES.

Mr. BURRIS. Mr. President, allow me to enquire what action the Convention has taken to provide for publication in pamphlet form of the debates and proceedings?

The PRESIDENT (Mr. Thacher in the Chair). The chairman of the committee on printing perhaps can tell.

Mr. BURRIS. I simply desired to call the attention of the Convention to it.

Mr. HUTCHINSON. Mr. President, I would state in reply, though not upon that committee, that the printer commenced striking off the same matter he publishes in his paper, for a pamphlet edition of sixty copies, by request of the chairman of the committee. The matter was named in open Convention, suggestions were called for and none were made; so the committee increased the number from sixty to one hundred. At that point the matter rests. They are striking off simply one hundred copies, and at this late stage it would be expensive to make any new orders; but the printer proposes to continue striking the same number to the close, when we will have two copies to each member, each copy stitched together, with paper covers—with this exception: this arrangement was not proposed until the type of two or three days' proceedings had been taken down—I don't know what the term is they use.

Mr. THACHER. Distributed.

Mr. HUTCHINSON. It will require a new resolution about the matter, throughout, for the printer should reset the first two or three days' proceedings, in order that we will have complete reports.

LIPMAN MEYER.

Mr. J. BLOOD. Mr. President, I believe there was a memorial laid upon the table yesterday from Mr. Meyer, asking for additional pay for the use of this hall. If in order, I move that memorial be taken from the table.

The motion was agreed to.

Mr. J. BLOOD. Mr. President, I propose to offer the following resolution:

"*Resolved*, That one hundred dollars be and is hereby allowed to Mr. L. Myers, in addition to the amount ($291) recommended by the committee on accounts."

[*429] *Mr. FOSTER. I move to lay it upon the table.

The PRESIDENT (Mr. Thacher in the Chair). There is not a second.

The resolution was adopted.

PROCEEDINGS AND DEBATES.

Mr. PRESIDENT WINCHELL. Mr. President, is there anything before the House?

The PRESIDENT. There is nothing.

Mr. PRESIDENT WINCHELL. I offer the following resolution:

"*Resolved*, That the pamphlet copies of the proceedings and debates be ordered to be completed and distributed among the members and officers."

Mr. PRESIDENT WINCHELL. Mr. President, I would say that I understood one hundred copies to be ordered; that a large proportion of the pamphlet is printed, but the first part is not printed, and the type has been distributed. The whole operation of that resolution would be to have the first part re-printed so as to complete the pamphlet. If the Convention is desirous of going to an additional expense and ordering the whole type reset, to have a thousand copies printed, I shall not object. But in order to secure what we have done, I think that resolution is necessary.

Mr. STIARWALT. Mr. President, I move that the resolution be amended so that five hundred copies be printed in pamphlet form.

Mr. WINCHELL. I accept the amendment.

Mr. THACHER. Mr. President, I suggest that, having to reset the type for five hundred copies, you might as well have a thousand copies struck off as five hundred. The additional expense would be trifling—only the press-work and paper.

Mr. STIARWALT. I accept.

The resolution, as thus amended, was then adopted.

THE LEAVENWORTH TIMES.

Mr. SIMPSON. I offer the following resolution:

"*Resolved*, That the thanks of this Convention are tendered to Champion Vaughn, proprietor of the Leavenworth *Times*, for the gratuitous distribution of his paper to the delegates."

The resolution was adopted.

THE LADIES.

The PRESIDENT. The Chair would state he has a communication from the ladies, which he is requested to read:

"The ladies attending the sessions of this Convention beg leave to respond to the vote of thanks tendered this morning—that they have been both pleased and profited by the debates and proceedings generally.

And while they acknowledge themselves duly grateful for small favors from the Constitutional Board, they beg leave to say, that the very commendable self-respect of the members generally, has relieved them from all unpleasant apprehensions as to the wisdom or the propriety of asking for the residue of "rights" on all suitable occasions.

C. J. H. NICHOLS, LUCY B. ARMSTRONG,
SUSAN COLLINS, H. ELIZABETH PAGE,
S. M. PADDOCK, EMILY STAPLETON,
CATHARINE LEE, BERTIA C. CARPENTER,
F. E. ROOT, H. H. ALDEN,
H. ANN TAYLOR."

THE WYANDOTTE COMMERCIAL GAZETTE.

The PRESIDENT. The Chair is requested to make a statement with regard to the printing account. A statement was made this morning by a member in his place, but no action was taken by the Convention. The Chair is now informed that Mr. McDonald is desirous of having the matter put in some shape, and that he is willing to compromise by taking money for the amount of papers originally contracted for—two copies to each member—and taking the balance in scrip. It seems to the Chair that this is a reasonable proposition on the part of Mr. McDonald. Some action should be taken, as there is no question but that the tacit understanding was that he was to have pay in cash for his papers, or the scrip at its cash value, which probably will be fifty per cent.

[*430] *Mr. Ross. He proposes to finish the proceedings and furnish the paper to the close, at that rate.

The PRESIDENT. So the Chair understands it. I suppose he will send them to the post office address of members.

Mr. ROSS. Yes, sir.

Mr. THACHER. It seems to me each member is to pay his two dollars.

Mr. KINGMAN. Will the gentleman from Douglas (Mr. Thacher) inform those men who are without money how they will do it?

Mr. THACHER. They had better be called upon by the gentleman from Brown (Mr. Kingman).

Mr. KINGMAN. He has had the subject under consideration longer than any other member of the House, probably.

Mr. STINSON. Mr. President, I desire to offer a resolution. I will prepare it.

PRINTING THE OFFICIAL REPORTS.

Mr. HUTCHINSON. Mr. President, about the resolution that was passed a few moments ago—I voted against it almost alone—in reference to ordering one thousand copies of the reports of the proceedings of this Convention. I simply wish to state the reasons for that vote, or rather the position the Convention is in, in reference to that vote. The order for Mr. McDonald to reset the matter will cost from one thousand to fifteen hundred dollars. The subject has been brought before us at two separate times in the early part of the session, and suggestions called for. At that time we might have ordered two thousand copies for the additional expense of only the press-work and paper—probably not over two hundred dollars; but now to reset the type for one thousand copies will cost five or six times that amount. I doubt whether the people of this Territory will consider that an economical act in this body. I would have

been glad to have voted for such a resolution at the time the two several suggestions were made, but after passing the whole session with an order for one hundred copies, to now order one thousand copies, is an injudicious act.

Mr. STINSON. Mr. President, I desire to offer the following resolution:

"*Resolved*, That a committee of five, with the Sergeant-at-Arms as chairman, be appointed to make a personal investigation into the pecuniary resources of members as well as their pockets, to ascertain if they can stand the 'raise' proposed by the printer."

Mr. GREER. I move to lay the resolution on the table.

The motion was rejected.

Mr. J. BLOOD. I propose to postpone the consideration of the resolution till to-morrow.

Mr. STINSON. I move to lay the motion on the table.

The motion was agreed to.

The resolution was then adopted.

Mr. HUTCHINSON. Mr. President, I now move to reconsider the vote ordering one thousand copies of the proceedings and debates to be printed.

The motion was agreed to.

Mr. THACHER. I move to adopt the resolution with the amount mentioned by the President (Mr. Winchell)—one hundred copies.

Mr. WRIGLEY. Mr. President, I desire to ask the chairman of the committee on printing whether or not the forms in the printing office are yet up? I forget the term used—but whether or not any of the past reports of proceedings have been distributed?

The PRESIDENT. The Chair understands the type has all been taken down as fast as the one hundred copies were printed.

The amendment was adopted as proposed by Mr. Thacher.

And then the resolution, as amended, was adopted.

Mr. THACHER. Mr. President, I move we proceed to the reading of the enrolled copy of the Constitution.

THE WYANDOTTE GAZETTE.

[*431] *Mr. Ross. Mr. President, I wish to make an explanation of this printing matter, if I could be in order.

The PRESIDENT. By consent the gentleman will proceed.

Mr. ROSS. The printer expects us to pay two dollars in cash for what papers he has printed. I do not think it would be proper to vote out of this appropriation the balance which he asks, which would more properly come from the members themselves. I think it would be no more than fair that each member, having received his papers, should pay him what he asks, inasmuch as it was a cash contract made in good faith.

The PRESIDENT. The Chair understands that, according to our present action, Mr. Macdonald has no provision made for paying him for the papers which have been printed for the use of the Convention.

Mr. THACHER. Mr. President, there was an understanding that the papers were to be a dollar a copy, and all understood they were to be paid for in scrip. Now the proposition is to receive two dollars in cash and the balance in scrip, at its cash value. I am willing to accept the proposal. I think it is fair; and we ought not to defraud the printer, anyway.

Mr. BURRIS. Mr. President, I offer the following:

"*Resolved,* That the proprietor of the Wyandotte *Commercial Gazette* be allowed six hundred and twenty-four dollars, for the publication of the three hundred and twelve copies of the *Gazette,* provided said number of copies shall continue to be furnished until the proceedings and debates of this Convention are all published."

Mr. MAY. Mr. President, there are several members of the Convention that have never received their copies. I have never received one-half of mine.

The PRESIDENT. The copies have been furnished by the printer.

Mr. MAY. I have been away some time, and requested they should be sent to me, but they never were.

The PRESIDENT. Will the Sergeant-at-Arms state whether they were sent to the hall? The Chair understands the printer has done his part.

Mr. HUTCHINSON. Mr. President, the printer has no money allowed him by that resolution. I came from his office since dinner, and I feel that he will not be satisfied with this disposition of the matter. His first proposition was that he would take one-half in cash, and he has since come down to two dollars. I am sure he will not take any lower offer. There was an express contract by which he was to receive pay from the members; I am sure I stated so the second day of the session. If gentlemen do not understand it, it is not because the statement was not made.

The PRESIDENT. The Chair would enquire whether six hundred was the number.

Mr. ROSS. The number was six copies to each member.

The PRESIDENT. The Chair understands the printer proposes to receive two dollars from each member in money, and eight dollars in scrip.

Mr. ROSS. The Sergeant-at-Arms informs me that the officers were also included.

Mr. J. BLOOD. If the committee on printing have any proposition to make, I would like to hear it. It seems to me they ought to be informed in relation to this matter.

Mr. ROSS. The Chairman of the committee on printing has distinctly stated that he thought it the duty of every member to fork over.

The PRESIDENT. It is impossible for gentlemen to fork over scrip, for it is not divided.

Mr. GRIFFITH. Mr. President, I would like to know if this resolution does not provide for double payment in scrip for these papers which the [*432] gentleman can cash, and thus get *the cash value of his papers? If we pass it, I think it would be all Mr. Macdonald would require. I presume it is customary for all legislative bodies to furnish a certain amount of papers for their members. If individual members take scrip for their pay, those doing business for us ought to take scrip; we ought all to stand upon common level in this matter.

Mr. MCCLELLAND. Mr. President, I move to amend the resolution so that it will read seven hundred and twenty dollars. In doing so, I count sixty copies, for members and officers. That, at two dollars a copy, amounts to seven hundred and twenty dollars. As there is a misunderstanding about the matter, this will make their cash value to the printer.

Mr. BLUNT. Mr. President, I wish to enquire of the Chair, or some one who has knowledge of the facts, if the proprietor of this paper is not

paid in addition for publishing the proceedings and debates—so much per thousand ems, in addition to what he gets from the sale of his paper?

Mr. Ross. Mr. President, that is a matter which has no reference whatever to the contract. There has been a definite contract entered into and made by him in good faith. If he gets too much, it is the fault of the Convention, and not his.

Mr. BLUNT. There seems to be some misunderstanding among members.

Mr. STINSON. Mr. President, I believe, if I remember right, we have never asked any land of Congress; I offer this as a substitute:

"*Resolved*, That Congress be memorialized to appropriate one-quarter section of land to pay the printer."

The substitute was adopted.

The resolution, as amended, was adopted.

Mr. THACHER. Mr. President, I now renew my motion to read the enrolled copy of the Constitution, as far as it is in the possession of the Convention.

Mr. Ross. Mr. President, I presume that the Constitution is now printed and ready for the use of members. I suggest that a page be sent to the printing office to procure printed copies, so that members can have it in their hands while the reading is going on.

The PRESIDENT. Unless objection is made, the reading will be deferred until a page goes to the printing office and gets the copies as printed, corrected and complete. The Sergeant-at-Arms will send for the copies. (A page was sent and returned.)

The Chair is informed that the Constitution will not be printed for some hours. The Secretary will proceed with the reading.

THE POWER BEHIND THE THRONE.

Mr. STINSON. Mr. President, I wish to offer the following resolution:

"*Resolved*, That the thanks of this Convention be tendered to J. Champion Vaughan, for the able and efficient manner in which he has discharged his duties as the power behind the throne in this Convention."

The resolution was adopted.

SIGNING OF THE CONSTITUTION.

The PRESIDENT. The Clerk will proceed to read the Constitution. The Constitution was read to the 5th article. The Chair is informed that it will be two hours before the balance will be ready. The signing will take some little time; it is now near five o'clock, and the Convention should decide upon what order of proceedings shall be had.

Mr. J. BLOOD. Mr. President, I move we proceed to sign it by districts.

Mr. THACHER. I suggest that the President and Secretary compare the copies afterward. I don't see any necessity for detaining the Convention to do it. The President of the Convention was a member of the committee on phraseology and arrangement, and we have already directed him to remain some thirty days. I think it is competent for us to sign it and leave the President and Secretary to examine and compare it with the enrolled copy.

The PRESIDENT. The Chair would suggest that the chairman of the [*433] committee on phrase*ology and arrangement be also directed to assist in the examination.

Mr. HUTCHINSON. Mr. President, I would ask if it would not be proper to move the adoption of the Constitution as a whole, first?

The PRESIDENT. It would.

Mr. HUTCHINSON. I therefore offer the following resolution:

"*Resolved,* That we do now adopt and proceed to sign the Constitution for the State of Kansas, as just completed by this Convention."

Mr. SLOUGH. Mr. President, I regret exceedingly that, for one, I cannot sign the Constitution, nor vote for the result of the labors of this Constitutional Convention. I regret also that a severe head-ache will prevent me from going into a detail of the reasons which have brought me to this conclusion. I will however attempt to state them, contenting myself with merely stating them without entering into any argument to sustain them.

The instrument, in the main, is a good one—perhaps, I might say, a model instrument. I do not know that I have ever read a State Constitution better framed in most things than this. But there are some provisions in it, and some that ought to be in it, which being there, and not being there, compel me to come to the conclusion that I have.

In the first place, Mr. President, I am not content with the boundaries that have been adopted for the future State of Kansas. I believe that the boundary policy adopted by this Constitutional Convention is prejudiced to the best interests of this people. I believe that instead of contracting our boundaries—instead of narrowing down to the boundaries adopted in the preamble, it would have been our true policy taken into[1] the northern boundary of Kansas the additional territory proposed by the minority upon this floor. I believe the time will come in the Territory of Kansas when this great error here committed will be seen by every member upon this floor. Without that portion of the original Territory of Kansas which has been cut off, we are cut off from one of our greatest resources of wealth. Not being a manufacturing or a commercial people—prevented by our central location from being either—we must depend upon our mineral and agricultural resources for the future greatness of the State. Until the country becomes settled we have, by this act, deprived ourselves of that amount of wealth which is necessary for our immediate future prosperity.

The system of government we have adopted, in some respects, is extravagant. There is no necessity for our legislative body to be composed of as many members as if we were an old State. A proposition was made by the minority here to reduce the number to fifty or sixty; which would have been a yearly saving to the State of Kansas of about $12,000—enough to pay the salary of judges of the new State. I cannot vote for it, again, on account of its extravagance.

And I cannot vote for it for another reason: I believe that, by the exclusion of those Indians, made citizens of the United States by treaty or otherwise, you are placing us in a position of antagonism to the treaty making power of the country. That power is vested in Congress. That body has declared that certain classes of these Indian tribes are citizens; and I ask gentlemen, if we exclude those, whether, having adopted a Constitution republican in form, we can be sure having adopted one which will entitle us to admission into the Union? I think not.

And there is another provision which I object to—a provision which I think one of the most damnable that has been inserted into the instrument, and that is the provision for a registry law. I might read the argument in opposition to it, but, as I stated before, my health will not permit. That provision is to be found in the schedule. It is there provided that every

[1] NOTE.—Perhaps instead of this phrase the speaker intended to say "to take by."—*Ed.*

election, including the one at which this Constitution shall be voted upon, shall be governed by a registry law. The registry law passed [*434] by *the Legislature would not have affected the vote upon this instrument. It has been customary in every new State in this Union to throw open the door and let all its voting inhabitants vote on the adoption of the proposed Constitution. I believe that in Minnesota all who had been ten days upon the soil were permitted to vote upon the adoption of the Constitution of that State.

Again, my position with reference to this doctrine of negro suffrage is well known by every member upon this floor. I am not satisfied that this instrument should go to the people without the exclusion of the negro and mulatto in terms unmistakably plain. Believing that principle to be right, when I became a candidate for this position, I became pledged to myself as well as to my constituents, to do everything in my power to provide in future for the exclusion of free negroes by a clause in the Constitution of the State of Kansas. I am satisfied also that that pledge was given by a majority of members upon this floor. I believe that if it were not so, the majority here would have been constituted of a different political faith. But no provision has been made looking to their exclusion. The question has not been submitted to the people. The majority here have been afraid to trust the people: because it is well known, and cannot be denied, that the people of this Territory are in favor of their exclusion.

There are a number of lesser objections—objections that I might urge against voting for this instrument, but which might not preclude or prevent me from signing it. Those I will pass over.

There is one other provision—one which being retained in the instrument narrows greatly the chances of its success before the people—and that is the article upon Apportionment. Based upon no correct principle whatever—upon no principle adopted by any State from Maine to California—it is apparent upon its face, that its purpose is to carry the Territory into the hands of the Republican party—to answer the demands of the political party in the majority upon this floor.

Mr. President, with its features so colored and distorted, I cannot either vote for or sign this instrument. I sincerely regret this, sir, because I have labored since the moment I came here to the present hour, arduously and earnestly from morning till night, to endeavor to make this Constitution an instrument calculated to promote the well being of the people of Kansas, and such an one as would secure their endorsement and our admission into the Union. I would be willing to waive my personal objection to it, if but two changes could be made—and I went with some of my friends here to the majority and told them as much. We urged the changes, because of our desire to throw off our present form of government and gain admission into the Union. We wanted a Constitution that we could sign—one that would receive the endorsement of the people and secure our admission into the Union. We earnestly desired those two provisions: to submit to the people of Kansas the question of negro exclusion; and an apportionment based upon population—the only true basis of apportionment for representative purposes. This was denied us. The two-thirds rule was applied. And no attempt to amend after that could have been successful. I regret, therefore, Mr. President, the circumstances which compel me thus to act. And I felt that it was necessary, perhaps, in justification of myself, to say what I have now said.

Mr. THACHER. Mr. President, the event fore-shadowed from the com-

mencement of the session is now fully revealed. The small minority of this Convention and of the people of Kansas are to oppose this Constitution. For this extraordinary course extraordinary reasons are given, such as I am unwilling to see go upon the record unanswered.

It is said that this Constitution must be opposed because it does not extend the elective franchise to Indians. This comes from those who have [*435] filled the air with cries for a "white *State"—who have charged upon their opponents all sorts of *color affiliation*, and who have resolved time and again that the white race is superior to any other. Do gentlemen mean to say that the Osages, Kiowas and Kaws are their equals, and therefore entitled to the suffrage right? In what do these savage tribes excel their dark-skinned brothers, against whom the minority of this Convention cherish such malignant hatred? Moreover, when this question of Indian suffrage has been mooted we have invariably proposed to the minority to extend the voting privilege to all persons "citizens of other sister States," whenever their residence here was sufficient; and we would make this elective franchise as broad as they desired. This act of courtesy to our sister States these gentlemen invariably refused. The truth is these bands of Indians are under the control of the resident Indian agents, who are offensively Administration partisans, and who can march red men up to the polls like so many herds. On this account this matter is pressed; and because of this the minority act with gross inconsistency in hunting down with ferocious cruelty the mulatto, and then fondle and hug to their bosoms the Indian. If this climax of either wrong or selfish folly is grateful to the minority, they are welcome to it.

So far as the apportionment is concerned, let me narrate the history of that matter. I was a member of the apportionment committee, and therefore speak advisedly. The committee procured, as far as possible, from different delegates, the voting population of their respective counties. Upon these representations we based the apportionment, giving, however, to each organized county one representative. To this the Democratic members of the committee agreed, save McDowell of Leavenworth; who, though notified several times, did not meet with the committee. When the committee report was made, it was met with a storm of indignation and wrath by the minority, and on their urgent plea it was sent back to the committee. Again the committee met—the four Democratic members being present. Mr. Graham of Atchison—a true man he is too—proposed to the minority that, as it was impossible to get the census returns so as to base the apportionment upon the exact figures, the committee should recommend to the Convention to appoint three commissioners, whose duty it should be to procure from the counties the census returns, and upon them make the apportionment, giving first to each organized county one Representative. This eminently fair proposition was persistently resisted by the minority, and so was not passed. We then made another apportionment, varying the first somewhat. By this last ten and one-half Senators were given north of the Kansas river. Col. Slough had just said to the committee, if you will give *ten* Senators north of the Kansas, we will be satisfied. But the minority of the committee would not agree to anything, making one recall our Saviour's description of the "children in the market place." The apportionment passed by the Convention, was agreed upon in the committee, and was adopted here while I was sick and absent. The apportionment report made by the minority exceeds, however, in unfairness both as to the population and arrangement, by a hundred fold, any report ever presented to this Convention by the majority of the committee. There is not a single feature of fairness in that entire report. In

some instances it requires two thousand Republican voters for a Senator, while in others *twenty-five* Administration votes are deemed sufficient for the same purpose. For the truth of these general statements I appeal to every gentleman cognizant of the facts. The apportionment which finally passed, it is not claimed is not fair so far as population is concerned.

Mr. SLOUGH. The gentleman is mistaken in the premises. We object to the apportionment not only for the reasons indicated by him, but because it is unfair, it is not based upon the returns of population, under the rule.

Mr. THACHER. Mr. President, I think I have already clearly answered [*436] that point. The mi*nority refused to agree to the appointment of commissioners, who should base the apportionment upon the exact census returns.

The Registry law is complained of. Of that I only answer that none can truly carp at that law who do not wish to profit by illegal voting. I can well conceive how gentlemen who have seen the glories of Kickapoo, Oxford, Delaware and McGee returns, and profited thereby, may desire a return of those golden days of easy elections. But every man desiring to see true and honest elections will hail with joy the Registry law. Fraudulent voting has been the curse of Kansas. Do gentlemen desire a return of those days?

One more objection is urged. The Constitution does not submit to the people the question of the exclusion of colored persons. Neither did the Lecompton Constitution, that was framed by rabid pro-slavery Democrats. Besides this the minority of this Convention have never, in any form, submitted a proposition of that kind to this Convention. On the contrary, when asked to do so by Republican delegates, who were favorable to the submission of that question to the people, they invariably *flatly refused*. You did not want that question left to the people, and the objection at this stage of our proceeding comes with very ill grace.

But now, while I have the floor, I may be permitted to submit some general remarks concerning the instrument we have framed.

One of the most important deliberative bodies ever assembled in Kansas is about to close its labors. The Constitution it presents to the world is confessed, by one who opposes it out of political considerations, to be a model one. For terseness of expression and vigor of general outline, I believe it to be unexcelled by that of any State in this Union.

This Constitution has come through a fiery debate. Every line almost has been subjected to the scorch of high-wrought argument. (And right here, allow me, parenthetically, to remark, that if in the fevor of debate I may have dropped language offensive to any gentleman, I am truly sorry; for though the ideas expressed must stand, the garb which clothed them may have been not well chosen. I do not desire to wound any gentleman's feelings, and as I cherish no unkind remembrances for the many hard words uttered against myself, so I trust no one will deny to me the same oblivion of memory.)

Mr. President, I believe this Constitution to be one that will be clasped to the hearts of the people, and under it Kansas will glide to an enviable position with the sister States.

It has been the aim of the majority of this body to make this Constitution the draft, the outline of great civil truths and rights, leaving out, as far as possible, special legislation. The old Latin maxim has been pursued:—*Fontes expetere, fortius quam rivulos sectari.* Seek out cardinal principles, passing by mere details. There is scarce a feature of the Constitution but what will command the homage of all good men. And

although we have had some warm work in elaborating and completing it, yet it is and shall be:

"Like some tall cliff that lifts its awful form,
Swells above the vale and midway meets the storm,
Around its bosom howling tempests spread,
Eternal sunshine settles on its head."

Such will be the popular verdict. But, sir, the feature which most endears this Constitution to my heart, and which will commend it most to the true and good everywhere, is that through every line and syllable there glows the generous sunshine of liberty. No repulsive allusion, no wicked prejudice, no ignorant and heathenish distinction mars its beauty or disfigures its fair symmetry.

Upon this Constitution we meet our opponents upon the popular arena. It is a better, a nobler issue than even the old Free State issue. They have thrown down the gauntlet, we joyfully take it up. The members of this Convention have richly earned the love and gratitude of their constituents. They have perfected a work that will be enduring. With-
[*437] *out much egotism they may say of their labors, with the Augustan poet:

"Exegi monumentum aere perennins, non omnis moriar."

It will prove more lasting than brass, and its framers shall ever enjoy an enviable fame.

We part, sir, from this hall, having discharged our arduous duty. Let us part as friends, transferring the discussion and the analysis of our work to those for whom it has been wrought.

Mr. SLOUGH. Mr. President, as quite a number of members are not advised of the fact that the Constitution is being adopted, I ask for a call of the House.

The PRESIDENT. The Clerk will call the roll.

The roll was called, and the following members answered to their names:

Messrs. Arthur, Burnett, Blunt, Barton, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Foster, Forman, Graham, Greer, Griffith, Hipple, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, May, Moore, McDowell, McCune, McClelland, McCullough, Preston, Palmer, Parks, Porter, Ritchie, Ross, Signor, Slough, Stinson, Stiarwalt, Stokes, Simpson, Thacher, Townsend, Wrigley, Williams, Mr. President —48.[1]

Mr. SLOUGH. Mr. President, I move that all further proceedings in the call be dispensed with.

The motion was agreed to.

The yeas and nays were demanded upon the adoption of Mr. Hutchinson's resolution adopting the Constitution as a whole, and being ordered and taken, resulted—yeas 34, nays 13—as follows:

YEAS—Messrs. Arthur, Burnett, Blunt, Burris, J. Blood, N. C. Blood, Crocker, Dutton, Graham, Greer, Griffith, Hutchinson, Hanway, Hoffman, Houston, Ingalls, Kingman, Lillie, Lamb, Middleton, May, McCullough, Preston, Palmer, Porter, Ritchie, Ross, Signor, Stokes, Simpson, Thacher, Townsend, Williams, Mr. President—34.

[1] NOTE.—Evidently a miscount as only 47 delegates responded to the "call," and 47 voted upon the roll call recorded immediately after. The five absentees were: Brown (Leavenworth), Hubbard (Doniphan), Perry (Leavenworth), John Wright (Leavenworth), and T. S. Wright (Nemaha). The last-named delegate was a Republican, absent on sick-leave; the others were Democrats.

NAYS—Messrs. Barton, Foster, Forman, Hipple, Moore, McDowell, McCune, McClelland, Parks, Slough, Stinson, Stiarwalt, Wrigley—13.

So the Constitution, as a whole, was adopted.

Mr. STINSON. Mr. President, I rise to a point of order. Does it not require a two-thirds vote to carry the Constitution?

The PRESIDENT. The Chair is not aware of any such order. If the gentleman knows of any such rule he may present authorities to the Chair. The Chair will state that the Secretary has gone after the attesting clause of the Constitution, for members to sign, and will be back presently.

PERSONAL EXPLANATION.

Mr. STINSON. Mr. President, will it be in order to rise to a question of privilege.

The PRESIDENT. The Chair would think so.

Mr. STINSON. I regret that during the remarks of Mr. Thacher I was absent from the hall; and regarding as I do the unfortunate occurrence of yesterday, I desire to enquire of him whether any charges which affected the character of myself and colleague were by him withdrawn.

Mr. THACHER. I stated on yesterday that I made no charges; I merely argued from the evidence and facts already before us. The argument and the facts remain as they were. If the gentleman understood me to make a charge, he is mistaken; I stated so then, and I don't see how a misunderstanding can be kept up.

THE SIGNATURE.

The PRESIDENT. The Chair would state that it is very nearly dark, and we will be under the necessity of concluding very soon or of lighting candles. The districts of the Territory will be called and the names of delegates from the districts as they appear on the list; and as the names of members are called, they will proceed to the clerk's table and affix their names to the Constitution.

The names of the delegation from the Leavenworth district were first called.

None of them coming forward, the President enquired if no one of the members from Leavenworth desired to sign the Constitution?

[*438] *Mr. Slough, Mr. Stinson, and others answered "No."

The names of the Atchison delegation were called.

Mr. MAY. I will sign it, but I very much regret that a negro-exclusion clause has not been submitted to the people: I believe it will be quite to our disadvantage.

THE ENROLLED COPY.

Mr. THACHER offered the following resolution:

"*Resolved*, That the President and Secretary of the Convention, and the chairman of the committee on Phraseology and Arrangement be instructed to see that the enrolled copy of the Constitution correspond with the copy as passed by the Convention this morning."

The resolution was adopted.

Mr. THACHER. I don't know but there should be pay given to the chairman of the committee on Phraseology for such time as he may devote to carrying out the resolution just passed.

EXTRA COMPENSATION OF JOURNAL CLERK.

Mr. BURRIS. I move to amend by adding that three days additional pay be allowed the journal clerk. I understand it will take two or three days to finish the journal copy.

The motion was agreed to.

THE JOURNAL OF TO-DAY.

The PRESIDENT. The Chair would state that the minutes of the day have not been read.

Mr. STINSON. I move that the reading be dispensed with.

Mr. BURRIS. I move the journal be read.

The latter motion was agreed to.

The journal of to-day was then read.

Mr. BURRIS. I would suggest the propriety of filling up the blank in the substitute I offered to the resolution of the gentleman from Madison (Mr. Lillie) by inserting the words: "29th day of July."

Mr. HUTCHINSON. Mr. President, the resolution offered by the gentleman from Doniphan (Mr. Stiarwalt) providing for the printing of one thousand copies of the Proceedings and Debates, does not appear upon the journal.

The PRESIDENT. It was modified to read "one hundred," and then adopted.

THANKS.

Mr. BURRIS. Mr. President, I would like to have the resolution read tendering thanks to the chief clerk and his assistants; I think there is a mistake there. (The resolution was read.) I desire to offer the following additional resolution:

"*Resolved*, That the thanks of this Convention be tendered to the Hon. E. S. Nash, Journal Clerk of this Convention, for the prompt and efficient manner in which he has performed the duties of his office."

The resolution was adopted.

THE PRESIDENT'S CHAIR.

Mr. CROCKER. Mr. President, I beg leave to offer the following resolution:

"*Resolved*, That as a testimonial of respect to the President, the members of this Convention present him the Chair he has so ably filled."

The resolution was adopted.

Mr. RITCHIE. Mr. President, I move that we do now adjourn *sine die*.

CERTIFICATES OF SERVICE—PAY.

Mr. MCCLELLAND. I hope the gentleman will withdraw so that gentlemen may have their names called, and that the delegates may go forward and receive their scrip.

Mr. RITCHIE. I withdraw.

Mr. MCCLELLAND. I now make that motion, Mr. President.

The motion was agreed to: and as their names were called members and officers of the Convention went forward and received their scrip.

REPORTERS.

Mr. STINSON offered the following:

"*Resolved*, That the thanks of this Convention are due and are hereby tendered to Messrs. Ariel and W. H. Drapier, for the full and complete

[*439] report which they have given of *the Proceedings and Debates of this Convention."

The resolution was adopted.

Mr. J. BLOOD. Mr. President, there are some members of the Convention who are not present to sign the Constitution. I move that any member of the Convention be allowed to sign the Constitution any time within thirty days.

The motion was agreed to.

Mr. J. BLOOD. Mr. President, I now move that we adjourn *sine die*.

The motion was agreed to.

THE PRESIDENT. The ayes have it, and the Convention is adjourned. I now declare this Convention adjourned *sine die*.

THE CONSTITUTION.

The Constitution thus formally completed, verified and signed, is in the following form:

*CONSTITUTION

OF THE

STATE OF KANSAS;

ADOPTED AT WYANDOT, JULY 29, '59.

ORDINANCE.

WHEREAS, the Government of the United States is the proprietor of a large portion of the Lands included in the limits of the State of Kansas as defined by this Constitution; and whereas the State of Kansas will possess the right to tax said lands for purposes of government, and for other purposes; Now, therefore, be it ordained by the people of Kansas, that the right of the State of Kansas to tax such lands, is relinquished forever, and the State of Kansas will not interfere with the title of the United States to such lands, nor with any regulation of Congress in relation thereto, nor tax non-residents higher than residents; *Provided always,* That the following conditions be agreed to by Congress:

SECTION 1. Sections numbered sixteen and thirty-six in each township in the State, including Indian reservations and Trust lands, shall be granted to the State for the exclusive use of Common Schools; and when either of said sections, or any part thereof, has been disposed of, other lands of equal value, as nearly contiguous thereto as possible, shall be substituted therefor.

SEC. 2. That seventy-two sections of land shall be granted to the State for the erection and maintenance of a State University.

SEC. 3. That thirty-six sections shall be granted to the State for the erection of public buildings.

SEC. 4. That seventy-two sections shall be granted to the State for the erection and maintenance of charitable and benevolent institutions.

SEC. 5. That all salt springs, not exceeding twelve in number, with six sections of land adjacent to each, together with all mines, with the lands necessary for their full use, shall be granted to the State for works of public improvement.

SEC. 6. That five per centum of the proceeds of the public lands in Kansas, disposed of after the admission of the State into the Union, shall be paid to the State for a fund, the income of which shall be used for the support of Common Schools.

SEC. 7. That the Five Hundred Thousand acres of land to which the State is entitled under the Act of Congress entitled "An Act to appropriate the proceeds of the sales of public lands and grant pre-emption rights," approved September 4th, 1841, shall be granted to the State for the support of Common Schools.

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* In the edition of 1859 the paging at this point reverts to number one.

SEC. 8. That the lands hereinbefore mentioned shall be selected in such manner as may be prescribed by law; such selections to be subject to the approval of the Commissioner of the General Land Office of the United States.

PREAMBLE.

We, the people of Kansas, grateful to Almighty God for our civil and religious privileges, in order to insure the full enjoyment of our rights as American citizens, do ordain and establish this constitution of the State of Kansas, with the following boundaries, to-wit: Beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence running west on said parallel to the twenty-fifth meridian of longitude west from Washington; thence north on said meridian to the fortieth parallel of north latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning.

[*2] *BILL OF RIGHTS.

SECTION 1. All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness.

SEC. 2. All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the Legislature, which may not be altered, revoked or repealed by the same body; and this power shall be exercised by no other tribunal or agency.

SEC. 3. The people have the right to assemble, in a peaceable manner, to consult for their common good, to instruct their representatives, and to petition the government, or any department thereof, for the redress of grievances.

SEC. 4. The people have the right to bear arms for their defence and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power.

SEC. 5. The right of trial by jury shall be inviolate.

SEC. 6. There shall be no slavery in this State; and no involuntary servitude, except for the punishment of crime, whereof the party shall have been duly convicted.

SEC. 7. The right to worship God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend or support any form of worship; nor shall any control of, or interference with the rights of conscience be permitted, nor any preference be given by law, to any religious establishment or mode of worship. No religious test or property qualification shall be required for any office of public trust, nor for any vote at any election, nor shall any person be incompetent to testify on account of religious belief.

SEC. 8. The right to the writ of habeas corpus shall not be suspended, unless the public safety requires it in case of invasion or rebellion.

SEC. 9. All persons shall be bailable by sufficient sureties except for capital offences, where proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

SEC. 10. In all prosecutions, the accused shall be allowed to appear and defend in person, or by counsel; to demand the nature and cause of the accusation against him; to meet the witness face to face, and to have compulsory process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed. No person shall be a witness against himself, or be twice put in jeopardy for the same offence.

SEC. 11. The liberty of the press shall be inviolate: and all persons may freely speak, write or publish their sentiments on all subjects, being responsible for the abuse of such right; and in all civil or criminal actions for libel, the truth may be given in evidence to the jury, and if it shall appear that the alleged libelous matter was published for justifiable ends, the accused party shall be acquitted.

SEC. 12. No person shall be transported from the State for any offence committed within the same, and no conviction in the State shall work a corruption of blood or forfeiture of estate.

SEC. 13. Treason shall consist only in levying war against the State, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the overt act, or confession in open court.

SEC. 14. No soldier shall, in time of peace, be quartered in any house without the consent of the occupant, nor in time of war, except as prescribed by law.

SEC. 15. The right of the people to be secure in their persons and [*3] property against unreasonable searches and seiz*ures, shall be inviolate; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons or property to be seized.

SEC. 16. No person shall be imprisoned for debt except in cases of fraud.

SEC. 17. No distinction shall ever be made between citizens and aliens in reference to the purchase, enjoyment or descent of property.

SEC. 18. All persons, for injuries suffered in person, reputation or property, shall have remedy by due course of law, and justice administered without delay.

SEC. 19. No hereditary emoluments, honors, or privileges shall ever be granted or conferred by the State.

SEC. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

ARTICLE I.

EXECUTIVE.

SECTION 1. The Executive Department shall consist of a Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, and Superintendent of Public Instruction; who shall be chosen by the electors of the State at the time and place of voting for members of the Legislature, and shall hold their offices for the term of two years from the second Monday of January, next after their election, and until their successors are elected and qualified.

SEC. 2. Until otherwise provided by law, an abstract of the returns of every election, for the officers named in the foregoing section, shall be

sealed up and transmitted by the Clerks of the Boards of Canvassers of the several Counties, to the Secretary of State, who, with the Lieutenant Governor and Attorney General, shall constitute a board of State Canvassers, whose duty it shall be to meet at the State Capital on the second Tuesday of December succeeding each election for State Officers and canvass the vote for such officers and proclaim the result; but in case any two or more have an equal and the highest number of votes, the Legislature shall by joint ballot choose one of said persons so having an equal and the highest number of votes for said office.

SEC. 3. The supreme executive power of the State shall be vested in a Governor, who shall see that the laws are faithfully executed.

SEC. 4. He may require information in writing from the officers of the executive department, upon any subject relating to their respective duties.

SEC. 5. He may, on extraordinary occasions, convene the Legislature by proclamation, and shall, at the commencement of every session, communicate in writing such information as he may possess in reference to the condition of the State, and recommend such measures as he may deem expedient.

SEC. 6. In case of disagreement between the two houses in respect to the time of adjournment, he may adjourn the Legislature to such time as he may think proper, not beyond its regular meeting.

SEC. 7. The pardoning power shall be vested in the Governor, under regulations and restrictions prescribed by law.

SEC. 8. There shall be a seal of the State, which shall be kept by the Governor, and used by him officially; and which shall be the great seal of Kansas.

SEC. 9. All commissions shall be issued in the name of the State of Kansas; signed by the Governor, countersigned by the Secretary of State, and sealed with the Great Seal.

SEC. 10. No member of Congress, or officer of the State or of the United [*4] States, *shall hold the office of Governor, except as herein provided.

SEC. 11. In case of the death, impeachment, resignation, removal or other disability of the Governor, the power and duties of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the President of the Senate.

SEC. 12. The Lieutenant Governor shall be President of the Senate, and shall vote only when the Senate is equally divided. The Senate shall choose a President *pro tempore*, to preside in case of his absence or impeachment, or when he shall hold the office of Governor.

SEC. 13. If the Lieutenant Governor, while holding the office of Governor, shall be impeached or displaced, or shall resign or die, or otherwise become incapable of performing the duties of the office, the President of the Senate shall act as Governor until the vacancy is filled, or the disability removed; and if the President of the Senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of Governor, the same shall devolve upon the Speaker of the House of Representatives.

SEC. 14. Should either the Secretary of State, Auditor, Treasurer, Attorney General, or Superintendent of Public Instruction, become incapable of performing the duties of his office for any of the causes specified in the thirteenth section of this Article, the Governor shall fill the vacancy until the disability is removed, or a successor is elected and qualified. Every

such vacancy shall be filled by election, at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the unexpired term.

SEC. 15. The officers mentioned in this article shall, at stated times, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

SEC. 16. The officers of the executive department, and of all public State institutions, shall, at least ten days preceding each regular session of the Legislature, severally report to the Governor who shall transmit such reports to the Legislature.

ARTICLE II.

LEGISLATIVE.

SECTION 1. The Legislative power of this State shall be vested in a House of Representatives and Senate.

SEC. 2. The first House of Representatives under this Constitution shall consist of seventy-five members, who shall be chosen for one year. The first Senate shall consist of twenty-five members, who shall be chosen for two years. After the first election, the number of Senators and members of the House of Representatives shall be regulated by law; but shall never exceed one hundred Representatives and thirty-three Senators.

SEC. 3. The members of the Legislature shall receive as compensation for their services the sum of three dollars for each day's actual service at any regular or special session, and fifteen cents for each mile traveled by the usual route in going to and returning from the place of meeting; but such compensation shall not in the aggregate exceed the sum of two hundred and forty dollars for each member as per diem allowance for the first session held under this Constitution, nor more than one hundred and fifty dollars for each session thereafter, nor more than ninety dollars for any special session.

SEC. 4. No person shall be a member of the Legislature who is not at the time of his election a qualified voter of, and a resident in, the county or district for which he is elected.

[*5] *SEC. 5. No member of Congress or officer of the United States shall be eligible to a seat in the Legislature. If any person after his election to the Legislature, be elected to Congress or elected or appointed to any office under the United States, his acceptance thereof shall vacate his seat.

SEC. 6. No person convicted of embezzlement or misuse of the public funds shall have a seat in the Legislature.

SEC. 7. All State officers before entering upon their respective duties, shall take and subscribe an oath or affirmation to support the Constitution of the United States and the Constitution of this State, and faithfully to discharge the duties of their respective offices.

SEC. 8. A majority of each House shall constitute a quorum. Each House shall establish its own rules; and shall be judge of the elections, returns and qualifications of its own members.

SEC. 9. All vacancies occurring in either House shall be filled for the unexpired term by election.

SEC. 10. Each House shall keep and publish a journal of its proceedings. The yeas and nays shall be taken and entered immediately on the journal, upon the final passage of every bill or joint resolution. Neither House,

without the consent of the other, shall adjourn for more than two days, Sundays excepted.

SEC. 11. Any member of either House shall have the right to protest against any act or resolution; and such protest shall, without delay or alteration, be entered on the journal.

SEC. 12. All bills shall originate in the House of Representatives, and be subject to amendment or rejection by the Senate.

SEC. 13. A majority of all the members elected to each House, voting in the affirmative, shall be necessary to pass any bill or joint resolution.

SEC. 14. Every bill and joint resolution passed by the House of Representatives and Senate, shall, within two days thereafter, be signed by the presiding officers, and presented to the Governor; if he approve, he shall sign it; but if not, he shall return it to the House of Representatives, which shall enter the objections at large upon its journal and proceed to reconsider the same. If, after such reconsideration, two-thirds of the members elected shall agree to pass the bill or resolution, it shall be sent, with the objections, to the Senate, by which it shall likewise be reconsidered; and if approved by two-thirds of all the members elected, it shall become a law. But in all such cases, the vote shall be taken by yeas and nays, and entered upon the journals of each House. If any bill shall not be returned w thin three days, (Sundays excepted,) after it shall have been presented to the Governor, it shall become a law in like manner as if he had signed it, unless the Legislature, by its adjournment, prevent its return, in which case it shall not become a law.

SEC. 15. Every bill shall be read on three separate days in each House, unless in case of emergency. Two-thirds of the House where such bill is pending may, if deemed expedient, suspend the rules; but the reading of the bill by sections, on its final passage, shall in no case be dispensed with.

SEC. 16. No bill shall contain more than one subject, which shall be clearly expressed in its title, and no law shall be revived or amended, unless the new act contain the entire act revived, or the section or sections amended, and the section or sections so amended shall be repealed

SEC. 17. All laws of a general nature shall have a uniform operation throughout the State; and in all cases where a general law can be made applicable, no special law shall be enacted.

[*6] *SEC. 18. All power to grant divorces, is vested in the District Courts, subject to regulation by law.

SEC. 19. The Legislature shall prescribe the time when its acts shall be in force, and shall provide for the speedy publication of the same; and no law of a general nature, shall be in force until the same be published. It shall have the power to provide for the election or appointment of all officers, and the filling of all vacancies not otherwise provided for in this Constitution.

SEC. 20. The enacting clause of all laws shall be "Be it enacted by the Legislature of the State of Kansas;" and no law shall be enacted except by bill.

SEC. 21. The Legislature may confer upon tribunals transacting the county business of the several counties, such powers of local legislation and administration as it shall deem expedient.

SEC. 22. For any speech or debate in either House, the members shall not be questioned elsewhere. No member of the Legislature shall be subject to arrest—except for felony or breach of the peace—in going to, or returning

from, the place of meeting, or during the continuance of the session; neither shall he be subject to the service of any civil process during the session, nor for fifteen days previous to its commencement.

SEC. 23. The Legislature, in providing for the formation and regulation of schools, shall make no distinction between the rights of males and females.

SEC. 24. No money shall be drawn from the treasury, except in pursuance of a specific appropriation made by law; and no appropriation shall be for a longer term than one year.

SEC. 25. All sessions of the Legislature shall be held at the State Capital, and all regular sessions shall commence annually on the second Tuesday of January.

SEC. 26. The Legislature shall provide for taking an enumeration of the inhabitants of the State at least once in ten years. The first enumeration shall be taken in A. D. 1865.

SEC. 27. The House of Representatives shall have the sole power to impeach. All impeachments shall be tried by the Senate; and when sitting for that purpose, the Senators shall take an oath to do justice according to the law and the evidence. No person shall be convicted without the concurrence of two-thirds of the Senators elected.

SEC. 28. The Governor and all other officers under this Constitution, shall be subject to impeachment for any misdemeanor in office; but judgment in all such cases shall not be extended further than to removal from office and disqualification to hold any office of profit, honor or trust under this Constitution; but the party, whether acquitted or convicted, shall be liable to indictment, trial, judgment and punishment, according to law.

ARTICLE III.

JUDICIAL.

SECTION 1. The Judicial power of this State shall be vested in a supreme court, district courts, probate courts, justices of the peace, and such other courts, inferior to the supreme court, as may be provided by law; and all courts of record shall have a seal to be used in the authentication of all process.

SEC. 2. The Supreme Court shall consist of one chief justice and two associate justices (a majority of whom shall constitute a quorum), who shall be elected by the electors of the State at large, and whose term of office, after the first, shall be six years. At the first election, a chief justice shall be chosen for six years, one associate justice for four years, and one for two years.

[*7] *SEC. 3. The supreme court shall have original jurisdiction in proceedings in quo warranto, mandamus, and habeas corpus; and such appellate jurisdiction as may be provided by law. It shall hold one term each year at the seat of government and such other terms at such places as may be provided by law, and its jurisdiction shall be co-extensive with the State.

SEC. 4. There shall be appointed, by the justices of the supreme court, a reporter and clerk of said court, who shall hold their offices two years, and whose duties shall be prescribed by law.

SEC. 5. The State shall be divided into five judicial districts, in each of which there shall be elected, by the electors thereof, a district judge, who

shall hold his office for the term of four years. District courts shall be held at such times and places as may be provided by law.

SEC. 6. The district courts shall have such jurisdiction in their respective districts as may be provided by law.

SEC. 7. There shall be elected in each organized county, a clerk of the district court, who shall hold his office two years, and whose duties shall be prescribed by law.

SEC. 8. There shall be a probate court in each county, which shall be a court of record, and have such probate jurisdiction and care of estates of deceased persons, minors, and persons of unsound minds, as may be prescribed by law; and shall have jurisdiction in cases of habeas corpus. This court shall consist of one judge, who shall be elected by the qualified voters of the county and hold his office two years. He shall be his own clerk, and shall hold court at such times and receive for compensation such fees as may be prescribed by law.

SEC. 9. Two justices of the peace shall be elected in each township, whose term of office shall be two years, and whose powers and duties shall be prescribed by law. The number of justices of the peace may be increased in any township by law.

SEC. 10. All appeals from probate courts and justices of the peace shall be to the district court.

SEC. 11. All the judicial officers provided for by this article shall be elected at the first election under this constitution, and shall reside in their respective townships, counties or districts during their respective terms of office. In case of vacancy in any judicial office, it shall be filled by appointment of the governor until the next regular election that shall occur more than thirty days after such vacancy shall have happened.

SEC. 12. All judicial officers shall hold their offices until their successors shall have qualified.

SEC. 13. The justices of the supreme court and judges of the district courts shall, at stated times, receive for their services such compensation as may be provided by law, which shall not be increased during their respective terms of office: *Provided*, Such compensation shall not be less than fifteen hundred dollars to each justice or judge, each year, and such justices or judges shall receive no fees or perquisites nor hold any other office of profit or trust under the authority of the State, or the United States, during the term of office for which such justices and judges shall be elected, nor practice law in any of the courts in the State during their continuance in office.

SEC. 14. Provision may be made by law for the increase of the number of judicial districts whenever two-thirds of the members of each house shall concur. Such districts shall be formed of compact territory and bounded by county lines, and such increase shall not vacate the office of any judge.

SEC. 15. Justices of the supreme court and judges of the district courts may be removed from office by resolution of both houses, if two-thirds of the members of each house concur. But no such removal shall be made except upon complaint, the substance of which shall be entered upon the journal, [*8] nor until the party charged *shall have had notice and opportunity to be heard.

SEC. 16. The several justices and judges of the courts of record in this State shall have such jurisdiction at chambers as may be provided by law.

SEC. 17. The style of all process shall be "The State of Kansas," and all prosecutions shall be carried on in the name of the State.

SEC. 18. Until otherwise provided by law, the first district shall consist of the counties of Wyandot, Leavenworth, Jefferson and Jackson. The second district shall consist of the counties of Atchison, Doniphan, Brown, Nemaha, Marshall and Washington. The third district shall consist of the counties of Pottawatomie, Riley, Clay, Dickinson, Davis, Waubonsee and Shawnee. The fourth district shall consist of the counties of Douglas, Johnson, Lykins, Franklin, Anderson, Linn, Bourbon and Allen. The fifth district shall consist of the counties of Osage, Coffey, Woodson, Greenwood, Madison, Breckenridge, Morris, Chase, Butler and Hunter.

SEC. 19. New or unorganized counties shall, by law, be attached for judicial purposes to the most convenient judicial district.

SEC. 20. Provision shall be made by law for the selection, by the bar, of a *pro tem.* judge of the district court, when the judge is absent or otherwise unable or disqualified to sit in any case.

ARTICLE IV.

ELECTIONS.

SECTION 1. All elections by the people shall be by ballot, and all elections by the Legislature shall be *viva voce*.

SEC. 2. General elections shall be held annually on the Tuesday succeeding the first Monday in November. Township elections shall be held on the first Tuesday in April, until otherwise provided by law.

ARTICLE V.

SUFFRAGE.

SECTION 1. Every white male person of twenty-one years and upwards belonging to either of the following classes—who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he offers to vote, at least thirty days next preceding such election—shall be deemed a qualified elector.

1st, Citizens of the United States; 2d, persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.

SEC. 2. No person under guardianship, *non compos mentis* or insane, shall be qualified to vote; nor any person convicted of treason or felony, unless restored to civil rights.

SEC. 3. No soldier, seaman or marine in the army or navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State in consequence of being stationed within the same; nor shall any soldier, seaman or marine have the right to vote.

SEC. 4. The Legislature shall pass such laws as may be necessary for ascertaining by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established.

SEC. 5. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or shall go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

SEC. 6. Every person who shall have given or offered a bribe to procure his election, shall be disqualified from holding office during the term for which he may have been elected.

SEC. 7. Electors, during their attendance at elections, and in going to [*9] and re*turning therefrom, shall be privileged from arrest in all cases except treason, felony, or breach of the peace.

ARTICLE VI.

EDUCATION.

SECTION 1. The State Superintendent of Public Instruction shall have the general supervision of the common school funds and educational interest of the State, and perform such other duties as may be prescribed by law. A Superintendent of Public Instruction shall be elected in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law.

SEC. 2. The Legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of common schools, and schools of a higher grade, embracing normal, preparatory, collegiate and university departments.

SEC. 3. The proceeds of all lands that have been, or may be, granted by the United States to the State, for the support of schools, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of public lands among the several States of the Union, approved Sept. 4, A. D. 1841, and all estates of persons dying without heir or will, and such per cent. as may be granted by Congress, on the sale of lands in this State, shall be the common property of the State, and shall be a perpetual school fund, which shall not be diminished, but the interest of which, together with all the rents of the lands, and such other means as the Legislature may provide, by tax or otherwise, shall be inviolably appropriated to the support of common schools.

SEC. 4. The income of the State school funds shall be disbursed annually, by order of the State Superintendent, to the several county treasurers, and thence to the treasurers of the several school districts, in equitable proportion to the number of children and youth resident therein, between the ages of five and twenty-one years: *Provided*, That no school district, in which a common school has not been maintained at least three months in each year, shall be entitled to receive any portion of such funds.

SEC. 5. The school lands shall not be sold unless such sale shall be authorized by a vote of the people at a general election; but, subject to revaluation every five years, they may be leased for any number of years not exceeding twenty-five, at a rate established by law.

SEC. 6. All money which shall be paid by persons as an equivalent for exemption from military duty; the clear proceeds of estrays, ownership of which shall vest in the taker up; and the proceeds of fines for any breach of the penal laws, shall be exclusively applied in the several counties in which the money is paid or fines collected, to the support of common schools.

SEC. 7. Provision shall be made by law for the establishment, at some eligible and central point, of a State University, for the promotion of literature, and the arts and sciences, including a Normal and an Agricultural department. All funds arising from the sale or rents of lands granted by the United States to the State for the support of a State University, and all other grants, donations or bequests, either by the State or by individuals, for such purpose, shall remain a perpetual fund, to be called the "University Fund;" the interest of which shall be appropriated to the support of the State University.

SEC. 8. No religious sect or sects shall ever control any part of the common school or University funds of the State.

SEC. 9. The State Superintendent of Public Instruction, Secretary of State and Attorney General shall constitute a board of Commissioners, for the management and investment of the School Funds. Any two of said Commissioners shall be a quorum.

[*10] *ARTICLE VII.

PUBLIC INSTITUTIONS.

SECTION 1. Institutions for the benefit of the insane, blind, and deaf and dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be prescribed by law. Trustees of such benevolent institutions as may be hereafter created, shall be appointed by the Governor, by and with the advice and consent of the Senate; and upon all nominations made by the Governor, the question shall be taken in yeas and nays, and entered upon the journal.

SEC. 2. A Penitentiary shall be established, the directors of which shall be appointed or elected, as prescribed by law.

SEC. 3. The Governor shall fill any vacancy that may occur in the offices aforesaid, until the next session of the Legislature, and until a successor to his appointee, shall be confirmed and qualified.

SEC. 4. The respective counties of the State shall provide, as may be prescribed by law, for those inhabitants, who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society.

ARTICLE VIII.

MILITIA.

SECTION 1. The Militia shall be composed of all able-bodied white male citizens between the ages of twenty-one and forty-five years, except such as are exempted by the laws of the United States, or of this State; but all citizens, of any religious denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be exempted therefrom, upon such conditions as may be prescribed by law.

SEC. 2. The Legislature shall provide for organizing, equipping and disciplining the Militia in such manner as it shall deem expedient, not incompatible with the laws of the United States.

SEC. 3. Officers of the Militia shall be elected or appointed, and commissioned in such manner as may be provided by law.

SEC. 4. The Governor shall be Commander in Chief, and shall have power to call out the Militia to execute the laws, to suppress insurrection, and to repel invasion.

ARTICLE IX.

COUNTY AND TOWNSHIP ORGANIZATION.

SECTION 1. The Legislature shall provide for organizing new counties, locating county seats, and changing county lines; but no county seat shall be changed without the consent of a majority of the electors of the county; nor any county organized, nor the lines of any county changed so as to include an area of less than four hundred and thirty-two square miles.

SEC. 2. The Legislature shall provide for such county and township officers as may be necessary.

SEC. 3. All county officers shall hold their offices for the term of two years, and until their successors shall be qualified; but no person shall hold the office of sheriff or county treasurer for more than two consecutive terms.

SEC. 4. Township officers, except justices of the peace, shall hold their offices one year from the Monday next succeeding their election, and until their successors are qualified.

SEC. 5. All county and township officers may be removed from office, in such manner and for such cause, as shall be prescribed by law.

ARTICLE X.

APPORTIONMENT.

SECTION 1. In the future apportionment of the State, each organized county shall have at least one Representative; and each county shall be divided into as many Districts as it has Representatives.

SEC. 2. It shall be the duty of the first Legislature to make an apportionment, based upon the census ordered by the last Legislative Assembly of the Territory; and a new Apportionment shall be made in the [*11] *year 1866, and every five years thereafter, based upon the census of the preceding year.

SEC. 3. Until there shall be a new apportionment, the State shall be divided into Election districts; and the Representatives and Senators shall be apportioned among the several districts as follows, viz:

		Rep.	*Sen.*
1st Dist.	Doniphan	4	2
2d "	Atchison and Brown	6	2
3d "	Nemaha, Marshall & Washington	2	1
4th "	Clay, Riley and Pottawatomie	4	1
5th "	Dickinson, Davis and Waubonsee	3	1
6th "	Shawnee, Jackson and Jefferson	8	2
7th "	Leavenworth	9	3
8th "	Douglas, Johnson and Wyandot	13	4
9th "	Lykins, Linn and Bourbon	9	3
10th "	Allen, Anderson, and Franklin	6	2
11th "	Woodson and Madison	2	1
12th "	Coffey, Osage & Breckenridge	6	2
13th "	Morris, Chase and Butler	2	1
14th "	Arrapahoe, Godfrey, Greenwood, Hunter, Wilson, Dorn and McGee	1	

ARTICLE XI.

FINANCE AND TAXATION.

SECTION 1. The Legislature shall provide for a uniform and equal rate of assessment and taxation; but all property used exclusively for State, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, and personal property to the amount of at least two hundred dollars for each family, shall be exempted from taxation.

SEC. 2. The Legislature shall provide for taxing the notes and bills discounted or purchased, moneys loaned, and other property, effects, or dues of every description, (without deduction) of all banks now existing, or hereafter to be created, and of all bankers; so that all property em-

ployed in banking shall always bear a burden of taxation equal to that imposed upon the property of individuals.

SEC. 3. The Legislature shall provide, each year, for raising revenue sufficient to defray the current expenses of the State.

SEC. 4. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same; to which object only such tax shall be applied.

SEC. 5. For the purpose of defraying extraordinary expenses and making public improvements, the State may contract public debts; but such debts shall never, in the aggregate, exceed one million dollars, except as hereinafter provided. Every such debt shall be authorized by law for some purpose specified therein, and the vote of a majority of all the members elected to each House, to be taken by the yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal thereof, when it shall become due; and shall specifically appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed nor the taxes postponed or diminished, until the interest and principal of such debt shall have been wholly paid.

SEC. 6. No debt shall be contracted by the State except as herein provided, unless the proposed law for creating such debt shall first be submitted to a direct vote of the electors of the State at some general election; and if such proposed law shall be ratified by a majority of all the votes cast at such general election, then it shall be the duty of the Legislature next after such election to enact such law and create such debt, subject to all the provisions and restrictions provided in the preceding sections of this article.

SEC. 7. The State may borrow money to repel invasion, suppress in-
[*12] surrection, or *defend the State in time of war; but the money thus raised, shall be applied exclusively to the object for which the loan was authorized, or to the repayment of the debt thereby created.

SEC. 3. The State shall never be a party in carrying on any works of internal improvement.

ARTICLE XII.

CORPORATIONS.

SECTION 1. The Legislature shall pass no special act conferring corporate powers. Corporations may be created under general laws; but all such laws may be amended or repealed.

SEC. 2. Dues from corporations shall be secured by individual liability of the stockholders to an additional amount equal to the stock owned by each stockholder; and such other means as shall be provided by law; but such individual liabilities shall not apply to railroad corporations, nor corporations for religious or charitable purposes.

SEC. 3. The title to all property of religious corporations, shall vest in Trustees, whose election shall be by the members of such corporations.

SEC. 4. No right of way shall be appropriated to the use of any corporation, until full compensation therefor be first made in money, or secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation.

SEC. 5. Provision shall be made by general law for the organization of cities, towns and villages; and their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, shall be so restricted as to prevent the abuse of such power.

SEC. 6. The term corporations, as used in this article, shall include all associations and joint stock companies having powers and privileges not possessed by individuals or partnerships; and all corporations may sue and be sued in their corporate name.

ARTICLE XIII.

BANKS AND CURRENCY.

SECTION 1. No bank shall be established otherwise than under a general banking law.

SEC. 2. All banking laws shall require, as collateral security for the redemption of the circulating notes of any bank, organized under their provisions, a deposit with the auditor of State, of the interest paying bonds of the several States or of the United States, at the cash rates of the New York stock exchange, to an amount equal to the amount of circulating notes which such bank shall be authorized to issue, and a cash deposit in its vaults of ten per cent of such amount of circulating notes; and the auditor shall register and countersign no more circulating bills of any bank, than the cash value of such bonds when deposited.

SEC. 3. Whenever the bonds pledged as collateral security for the circulation of any bank, shall depreciate in value, the auditor of State shall require additional security, or curtail the circulation of such bank, to such extent as will continue the security unimpaired.

SEC. 4. All circulating notes shall be redeemable in the money of the United States. Holders of such notes shall be entitled, in case of the insolvency of such banks, to preference of payment over all other creditors.

SEC. 5. The State shall not be a stockholder in any banking institution.

SEC. 6. All banks shall be required to keep offices and officers for the issue and redemption of their circulation, at a convenient place within the State, to be named on the circulating notes issued by such bank.

SEC. 7. No banking institution shall issue circulating notes of a less denomination than five dollars.

SEC. 8. No banking law shall be in force until the same shall have been submitted to a vote of the electors of the State at some general [*13] election, and *approved by a majority of all the votes cast at such election.

SEC. 9. Any banking law may be amended or repealed.

ARTICLE XIV.

AMENDMENTS.

SECTION 1. Propositions for the amendment of this Constitution may be made by either branch of the Legislature; and if two-thirds of all the members elected to each House shall concur therein, such proposed amendments, together with the yeas and nays, shall be entered on the journal, and the Secretary of State shall cause the same to be published in at least one newspaper in each county of the State where a newspaper is published,

for three months preceding the next election for Representatives, at which time the same shall be submitted to the electors, for their approval or rejection; and if a majority of the electors voting on said amendments, at said election, shall adopt the amendments, the same shall become a part of the Constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately; and not more than three propositions to amend shall be submitted at the same election.

SEC. 2. Whenever two-thirds of the members elected to each branch of the Legislature shall think it necessary to call a Convention to revise, amend or change this Constitution, they shall recommend to the electors to vote at the next election of members to the Legislature, for or against a Convention; and if a majority of all the electors voting at such election shall have voted for a Convention, the Legislature shall, at the next session, provide for calling the same.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. All officers whose election or appointment is not otherwise provided for, shall be chosen or appointed as may be prescribed by law.

SEC. 2. The tenure of any office not herein provided for may be declared by law; when not so declared such office shall be held during the pleasure of the authority making the appointment, but the legislature shall not create any office the tenure of which shall be longer than four years.

SEC. 3. Lotteries and the sale of lottery tickets are forever prohibited.

SEC. 4. All public printing shall be let, on contract, to the lowest responsible bidder, by such executive officers, and in such manner, as shall be prescribed by law.

SEC. 5. An accurate and detailed statement of the receipts and expenditures of the public moneys, and the several amounts paid, to whom, and on what account, shall be published, as prescribed by law.

SEC. 6. The Legislature shall provide for the protection of the rights of women, in acquiring and possessing property, real, personal and mixed, separate and apart from the husband; and shall also provide for their equal rights in the possession of their children.

SEC. 7. The Legislature may reduce the salaries of officers, who shall neglect the performance of any legal duty.

SEC. 8. The temporary seat of government is hereby located at the city of Topeka, county of Shawnee. The first Legislature under this Constitution shall provide by law for submitting the question of the permanent location of the Capital to a popular vote, and a majority of all the votes cast at some general election shall be necessary for such location.

SEC. 9. A Homestead to the extent of one hundred and sixty acres of farming land, or of one acre within the limits of an incorporated town or city, occupied as a residence by the family of the owner, together with all the improvements on the same, shall be exempted from forced sale under [*14] any process of law, and shall not be alienated *without the joint consent of husband and wife, when that relation exists; but no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon. *Provided;* the provisions of this section shall not apply to

any process of law obtained by virtue of a lien given by the consent of both husband and wife.

SCHEDULE.

SECTION 1. That no inconvenience may arise from the change from a Territorial Government to a permanent State Government, it is declared by this Constitution that all suits, rights, actions, prosecutions, recognizances, contracts, judgments and claims, both as respects individuals and bodies corporate, shall continue as if no change had taken place.

SEC. 2. All fines, penalties and forfeitures, owing to the Territory of Kansas, or any county, shall inure to the use of the State or county. All bonds executed to the Territory, or any officer thereof, in his official capacity, shall pass over to the Governor, or other officers of the State or county, and their successors in office, for the use of the State or county, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

SEC. 3. The Governor, Secretary and judges, and all other officers, both civil and military, under the Territorial government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this Constitution.

SEC. 4. All laws and parts of laws in force in the Territory, at the time of the acceptance of this Constitution by Congress, not inconsistent with this Constitution, shall continue and remain in full force until they expire, or shall be repealed.

SEC. 5. The Governor shall use his private seal until a State seal is provided.

SEC. 6. The Governor, Secretary of State, Auditor of State, Treasurer of State, Attorney General, and Superintendent of Public Instruction, shall keep their respective offices at the seat of government.

SEC. 7. All records, documents, books, papers, moneys and vouchers belonging and pertaining to the several Territorial Courts, and offices and to the several districts and county offices, at the date of the admission of this State into the Union, shall be disposed of in such manner as may be prescribed by law.

SEC. 8. All suits, pleas, plaints and other proceedings pending in any court of record, or justice's court, may be prosecuted to final judgment and execution; and all appeals, writs of error, certiorari, injunctions, or other proceedings whatever, may progress and be carried on as if this Constitution had not been adopted, and the Legislature shall direct the mode in which such suits, pleas, plaints, prosecutions and other proceedings, and all papers, records, books and documents connected therewith, may be removed to the courts established by this Constitution.

SEC. 9. For the purpose of taking the vote of the Electors of this Territory for the ratification or rejection of this Constitution, an election shall be held in the several voting precincts in this Territory, on the first Tuesday in October, A. D. 1859.

SEC. 10. Each elector shall express his assent or dissent by voting a written or printed ballot labelled "For the Constitution," or "Against the Constitution."

SEC. 11. If a majority of all the votes cast at such election shall be in favor of the Constitution, then there shall be an election held in the several voting precincts on the first Tuesday in December, A. D. 1859, for

the election of members of the first Legislature, of all State, District and County officers provided for in this Constitution, and for a Representative in Congress.

[*15] *SEC. 12. All persons having the qualifications of electors, according to the provisions of this Constitution, at the date of each of said elections, and who shall have been duly registered according to the provisions of the registry law of this Territory, and none others, shall be entitled to vote at each of said elections.

SEC. 13. The persons who may be Judges of the several voting precincts of this Territory at the date of the respective elections in this schedule provided for, shall be the Judges of the respective elections herein provided for.

SEC. 14. The said Judges of election, before entering upon the duties of their office, shall take and subscribe an oath faithfully to discharge their duties as such. They shall appoint two Clerks of election, who shall be sworn by one of said Judges faithfully to discharge their duties as such. In the event of a vacancy in the Board of Judges the same shall be filled by the electors present.

SEC. 15. At each of the elections provided for in this schedule the polls shall be opened between the hours of nine and ten o'clock, A. M., and closed at sunset.

SEC. 16. The tribunals transacting county business of the several counties, shall cause to be furnished to the Boards of Judges in their respective counties two poll books for each election hereinbefore provided for, upon which the clerks shall inscribe the name of every person who may vote at the said elections.

SEC. 17. After closing the polls at each of the elections provided for in this schedule, the Judges shall proceed to count the votes cast, and designate the persons or objects for which they were cast, and shall make two correct tally lists of the same.

SEC. 18. Each of the Boards of Judges shall safely keep one poll book and tally list, and the ballots cast at each election; and shall, within ten days after such election, cause the other poll book and tally list to be transmitted, by the hands of a sworn officer, to the clerk of the Board transacting County business in their respective Counties, or to which the County may be attached for municipal purposes.

SEC. 19. The tribunals transacting County business shall assemble at the County seats of their respective counties on the second Tuesday after each of the elections provided for in this schedule, and shall canvass the votes cast at the elections held in the several precincts in their respective counties, and of the Counties attached for municipal purposes. They shall hold in safe keeping the poll books and tally lists of said elections, and shall, within ten days thereafter, transmit, by the hands of a sworn officer, to the President of this Convention, at the City of Topeka, a certified transcript of the same, showing the number of votes cast for each person or object voted for at each of the several precincts in their respective counties, and in the counties attached for municipal purposes, separately.

SEC. 20. The Governor of the Territory, and the President and Secretary of this Convention shall constitute a Board of State canvassers, any two of whom shall be a quorum; and who shall, on the fourth Monday after each of the elections provided for in this schedule, assemble at said City of Topeka, and proceed to open and canvass the votes cast at the

several precincts in the different counties of the Territory and declare the result; and shall immediately issue certificates of election to all persons (if any) thus elected.

SEC. 21. Said Board of State Canvassers shall issue their proclamation not less than twenty days next preceding each of the elections provided for in this schedule. Said proclamations shall contain an announcement of the several elections, the qualifications of electors, the manner of conducting said elections and of making the returns thereof, as in this Con- [*16] stitution *provided, and shall publish said proclamation in one newspaper in each of the counties of the Territory in which a newspaper may be then published.

SEC. 22. The Board of State Canvassers shall provide for the transmission of authenticated copies of the Constitution to the President of the United States, the President of the Senate and Speaker of the House of Representatives.

SEC. 23. Upon official information having been by him received of the admission of Kansas into the Union as a State, it shall be the duty of the Governor elect under the Constitution, to proclaim the same and to convene the Legislature and do all things else necessary to the complete and active organization of the State Government.

SEC. 24. The first Legislature shall have no power to make any changes in county lines.

SEC. 25. At the election to be held for the ratification or rejection of this Constitution, each elector shall be permitted to vote on the Homestead provision contained in the Article on "Miscellaneous," by depositing a ballot inscribed "For the Homestead," or "Against the Homestead;" and if a majority of all the votes cast at said election shall be against said provision, then it shall be stricken from the Constitution.

RESOLUTIONS.

Resolved, That the Congress of the United States is hereby requested, upon the application of Kansas for admission into the Union, to pass an act granting to the State forty-five hundred thousand acres of land to aid in the construction of railroads and other internal improvements.

Resolved, That Congress be further requested to pass an act appropriating fifty thousand acres of land for the improvement of the Kansas River from its mouth to Fort Riley.

Resolved, That Congress be further requested to pass an act granting all swamp lands within the State for the benefit of common schools.

Resolved, That Congress be further requested to pass an act appropriating five hundred thousand dollars, or in lieu thereof five hundred thousand acres of land, for the payment of the claims awarded to citizens of Kansas by the Claim Commissioners appointed by the Governor and Legislature of Kansas under an act of the Territorial Legislature passed 7th February, 1859.

Resolved, That the Legislature shall make provision for the sale or disposal of the lands granted to the State in aid of internal improvements and for other purposes, subject to the same rights of preemption to the settlers thereon as are now allowed by law to settlers on the public lands.

Resolved, That it is the desire of the people of Kansas to be admitted into the Union with this Constitution.

Resolved, That Congress be further requested to assume the debt of this Territory.

Done in Convention at Wyandot, this 29th day of July, A. D. 1859.

JAMES M. WINCHELL,
President of the Kansas Constitutional Convention and Delegate from Osage County.

JOHN A. MARTIN, *Secretary*.

ROBT. GRAHAM,
JOHN JAMES INGALLS,
CALEB MAY,
J. A. MIDDLETON,
S. D. HOUSTON,
LUTHER R. PALMER,
JOHN TAYLOR BURRIS,
JOHN P. GREER,
JOHN RITCHIE,
H. D. PRESTON,
BENJAMIN F. SIMPSON,
JAMES M. ARTHUR,
JOSIAH LAMB,
WM. MCCULLOUGH,
JAS. G. BLUNT,
J. C. BURNETT,
SAML. A. KINGMAN,
ROBT. J. PORTER,
JAMES BLOOD,
S. O. THACHER,
EDWIN STOKES,
P. H. TOWNSEND,
WM. HUTCHINSON,
N. C. BLOOD,
EDMUND G. ROSS,
JAS. HANWAY,
ALLEN CROCKER,
SAML. E. HOFFMAN,
JAMES A. SIGNOR,
GEORGE H. LILLIE,
R. L. WILLIAMS,
W. P. DUTTON,
WM. R. GRIFFITH.

[END OF EDITION OF 1859.]

APPENDIX A.

Amendments and Constitutional Convention proposals submitted subsequent to the adoption of the Constitution:

TABLE 1—AMENDMENTS ADOPTED.

(NOTE.—Italic letters following figures in second column refer to footnotes.)

Year.	No.	Sec. and Art.	Sec. G. S. 1915.	Subject Matter of Amendment.
1861	1	7—13	248	Authorizes banks to issue $1 notes.
1864	2	12— 2	152	Bills originate in either house of Legislature.
	3	3— 5	197	Suffrage assured to soldiers and sailors.
1867	4	2— 5	196	Suffrage denied to certain classes of persons.
1868	5(*a*)	4—15	256	Legislature elects state printer.
1873	6	2— 2	142	Number of representatives and senators changed.
1875	7	25— 2	165	Establishes biennial sessions of Legislature.
	8(*b*)	29— 2	169	New section added. Fixes length of term of members of Legislature.
	9(*b*)	3—11	230	Revenue must be provided for term of two years.
1876	10(*b*)	24— 2	164	Appropriations must be made for two years.
	11(*b*)(*c*)	3— 9	222	Concerning election of county officers.
1880	12(*d*)	10—15	262	New section added. Prohibits manufacture and sale of intoxicating liquors.
1888	13	17 Bill of R.	121	Modifying property rights of aliens and citizens.
	14	1— 8	216	Changes composition of militia by striking out the word "white."
1900	15(*e*)	2— 3	171	Increases number of Supreme Court justices to seven.
1902	16(*f*)	2— 4	191	Concerning township and general elections.
1904	17	14— 2	154	Relating to signing of bills.
	18(*g*)	4—15	256	People elect the state printer.
1906	19	17— 2	157	Legislation must be general in application.
	20	2—12	237	Reducing liability of stockholders to face value of shares of stock.
	21	8— 3	177	Concerning the probate court, judge *pro tem.*, etc.
1912	22(*h*)	8— 5	202	New section added to Article 5. Establishes universal suffrage regardless of sex.
1914	23(*i*)	3, 4 and 5—4	192, 193, 194	New sections added to Article 4. Provides for the recall of public officers.
1918	24(*j*)	New 30—2	(169*a*)	Provides for permanent income for state educational institutions.
	25(*k*)	1— 5	195	Limits right of suffrage to citizens of United States.

NOTES ON TABLE 1.

(*a*) This section has been twice amended. For second amendment see No. 18 of this table.

(*b*) This is a new section added to article 2. Its adoption was made necessary by change from annual to biennial sessions of legislature at No. 7, as also were the amendments at Nos. 9, 10 and 11 of this table.

(*c*) This section and section 4 immediately following in the constitution were rendered nugatory by the adoption of the amendment to section 2, article 4. See No. 16 of this table.

(*d*) This is a new section added to article 15.

(*e*) Submitted and rejected twice: 1886 (No. 2 of table 3), and 1890 (No. 4 of table 3).

(*f*) Adopted to save expense and to secure uniformity and less frequency of elections. See No. 11 of this table, out of which amendment this one naturally grew.

(*g*) This section has been twice amended. See No. 5 of this table. Under the original section the state printing was done under contract; under No. 5, by a state printer elected by the legislature, and under this amendment, elected by the people.

(*h*) New section added to article 5. This amendment was submitted and rejected in 1894. See No. 3 of table 3 of this Appendix "A," and also the Fifteenth Amendment to the Constitution of the United States.

(*i*) These sections 3, 4, and 5 are new sections added to article 4.

(*j*) Amendment added since the 1915 compilation of the statutes. It does not provide what position it shall occupy in the constitution. It is chapter 352, Laws of 1917, adopted in 1918.

(*k*) Grew out of danger and abuse arising from voting by aliens who had simply declared their intentions to become citizens of the United States. It is chapter 353, Laws of 1917, adopted in 1918.

TABLE 2.—AMENDMENTS PENDING. DETERMINED AT 1920 ELECTION.

Year.	No.	Sec. and Art.	Chap. L. 1919.	Subject Matter.
1919	1	11—15	321	State aid for purchase of farm homes.
	2	8—11	331	Excepts roads from the prohibition against internal improvements.
	3(*a*)	1 and 2—11	335	Relates to classification of property for taxation.

NOTE ON TABLE 2.

(*a*) This pending amendment was rejected in 1914. See No. 10 of Table 3 of this "Appendix A."

TABLE 3.—AMENDMENTS REJECTED.

Year.	No.	Sec. and Art. of Const.	Chapter of Law.	Subject Matter.	Popular Vote.	
					For.	Against.
1867	1	1— 5	Not in.	Striking out word "white" before the word "male."	10,483	19,421
	2	1— 5	Not in.	Striking out word "male" before the word "person."	9,070	19,857
1880	3	1—11	Ch. 164, 1879	Repealing personal property exemption from taxation.	38,442	140,020
1886	4(*a*)	2 and 13—3	H. J. R., No. 4, 1885	Increasing number of Supreme Court justices to five.	81,788	132,535
1890	5(*b*)	3 and 25—2	H. J. R., No. 5, 1 89	Increasing compensation to members of Legislature.	52,463	140,041
	6(*a*)	2 and 13—3	H. J. R., No. 8, 1889	Increasing number of Supreme Court justices to seven.	66,60'	121,66
1894	7(*c*)	None stated.	274 of 1893	Making suffrage universal regardless of sex.	95,302	130,139
1902	8(*b*)	3— 2	423 of 1901	Increasing compensation to members of Legislature.	92,090	140,768
1908	9(*b*)	3— 2	431 of 1907	Increasing compensation to members of Legislature.	104,554	150,576
	10	13— 3	432 of 1907	Disqualifying judges from holding office.	102,156	135,745
1910	11(*b*)	3— 2	271 of 1909	Increasing compensation to members of Legislature.	91,894	181,970
1914	12( )	1 and 2—11	335 of 1913	Classification of property for taxation.	156,969	166,800

NOTES ON TABLE 3.

(*a*) This amendment differing only as to number of increase was twice rejected (Nos. 4 and 6 of this table), and finally adopte on its third submission in 1900. See No. 15 of Table 1 of this appendix.

(*b*) This proposition has been defeated four times: 1890, 1902, 1908, 1910. See Nos. 5, 8, 9 and 11 of this table 3.

(*c*) This rejected amendment was adopted at the election of 1912. See No. 22 of Table 1 of this appendix.

( ) This amendment has been resubmitted by the Legislature of 1919; is now pending, and will be determined by the election of 1920.

TABLE 4( ).—CONSTITUTIONAL CONVENTION PROPOSITIONS.

Year.	No.	Resolution or Chapter Number.	Subject Matter.	Popular Vote.	
				For.	Against.
1880	1(*b*)	Ch. 163 of 1879.	To call convention to change and revise the Constitution.	22,870	146,279
1892	2(*c*)	S. J. R. No. 1, 1891.	To call convention to revise, amend, or change the Constitution	118,441	118,951

NOTES ON TABLE 4.

(*a*) These two, out of many recommendations introduced at the various sessions of the Legislature, were defeated by the people at t' e elections held in 1880 and 1892.

(*b*) At the election of 1880, three amendments were submitted: the prohibitory liquor amendment, the amendment concerning the removal of the exemption of personal property from taxation, and this convention proposal. The first was adopted, the other two were defeated.

(*c*) This was the only constitutional proposition submitted by the Legislature of 1891.

TABLE 5.—AMENDMENT PROPOSITIONS—POPULAR VOTE.

Year.	No.	Sec. and Article.	G. S. 1915 and Laws.	Subject Matter.	Popular Vote.	
					For.	Against.
1861	1	7—13	248	Banks issue $1 circulating notes.	3,733	3,343
1864	2	12— 2	152	Bills originate in either house.	8,708	626
	3	3— 5	197	Suffrage assured to soldiers and sailors.	10,756	329
1867	4	2— 5	196	Suffrage denied to certain classes.	16,860	12,165
	*5	1— 5	.....	Suffrage enlarged by striking out "white."	9,070	19,857
	*6	1— 5	....	Suffrage enlarged by striking out "male."	10,483	19,421
1868	7	4—15	256	State printer elected by the Legislature.	13,471	5,415
1873	8	2— 2	142	Number of Senators and Representatives changed.	32,244	29,189
1875	9	25— 2	165	Establishes biennial sessions of Legislature.	43,320	15,478
	10	29— 2	169	New section added. Length of terms of legislators.	42,7 4	15,509
	11	3—11	230	Revenue provided for term of two years.	43,052	15,293
1876	12	24— 2	164	Appropriations made for two years.	95,430	1,768
	13	3— 9	222	Election of county officers.	93,1 8	1,985
1880	†14	None.	Ch. 163, Laws 1879.	Calls convention to change and revise Constitution.	22,870	146,279
	*15	1—11	C . 164, Laws 1879.	Repeal personal property exemption from taxation.	38,44	140,020
	16	10—15	262	New section added. Prohibition of liquor.	92,302	84,304
1886	*17	2 and 13—3	.....	Increasing number of supreme justices to five.	81,788	132,535
1888	18	17—B. of R.	121	Modifying property rights of citizens and aliens.	220,419	16,611
	19	1— 8	216	Strikes out word "white" in composition of militia.	223,474	22,251
1890	*20	3 and 25—2	.....	Increasing compensation of Legislature.	95,302	130,139
	*21	2 and 13—3	.....	Increasing number of Supreme Justices to seven.	66,601	121,636
1892	†22	None.	S. J. R., No. 1, Laws 1891.	Calls convention to revise, amend, or change Constitution.	118,491	118,951
1894	*23	.....	.....	Suffrage universal, regardless of sex.	95,302	130,139
1900	24	2 and 13—3	171	Increasing number of Supreme Justices to seven.	123,721	35,474
1902	*25	3— 2	.....	Increasing compensation of Legislature.	92,090	140,768
	26	2— 4	191	Concerning township and general elections.	144,776	78,190
1904	27	14— 2	154	Relating to signing of bills.	162,057	60,148
	28	4—15	256	State printer elected by the people.	169,620	52,363
1906	29	17— 2	157	Legislation must be general in application.	110,021	63,485
	30	2—12	237	Reducing liability of shareholders.	110,266	67,409
	31	8— 3	177	Concerning the probate court, etc.	107,974	70,730
1908	*32	3— 2	.....	Increasing compensation of Legislature.	104,554	150,576
	*33	13— 3	.....	Disqualifying judges from holding office.	102,156	135,745
1910	*34	3— 2	.....	Increasing compensation of Legislature.	91,894	181,970
1912	35	8— 5	202	New section added to Article 5. Woman suffrage.	175,246	159,197
1914	36	3, 4 and 5—4	192, 193, 194	New sections added. Concerning recall of officers.	240,240	135,630
	*37	1 and 2—11	.....	Classification of property for taxation.	156,969	166,800
1918	38	New ection added.	Ch. 352, Laws of 1917.	Permanent income tax for state educational institutions.	234,858	101,569
	39	1— 5	Ch. 353, Law of 1917.	Limits suffrage to citizens of United States	238,453	91,619

NOTES ON TABLE 5

*Nos. 5, 6, 14, 15, 17, 20, 21, 22, 23, 25, 32, 33, 34, and 37, (14 in all) are rejected propositions.
†Nos. 14 and 22 are constitutional co..vention calls. See * above.

GENERAL NOTES ON APPENDIX A.

A resumé of the tables of this appendix shows that in 58 years (1861-1919) 42 propositions "to amend, change, or revise" the constitution have been submitted to the popular vote, with the following result:

25 have been adopted (Table 1);
3 are now pending (Table 2);
12 amendments (Table 3) and
2 constitutional convention calls (Table 4) have been rejected.

Of the Twenty-five Adopted—

2 (Nos. 5 and 8) are amendatory of the same subject matter;
5 (Nos. 12, 18, 22, 23—3 sections—and 24) are entirely new additions to the original constitution; while
1 (No. 16) entirely eliminates sec. 2, art. 4, which had been amended in 1876 (No. 11), and
2 (Nos. 15 and 22) were first defeated, the former, twice (Nos. 2 and 4 of Table 3) in 1886 and 1890, respectively, and the latter, once (No. 5 of Table 3) in 1894.

Of the Pending Amendments—

No. 3 is the second submission of the proposition. The first (No. 10 of Table 3) was defeated in 1914.

Of the Rejected Amendments—

One was twice defeated (Nos. 2 and 4) in 1886 and 1890, respectively, and adopted on the third trial (No. 15 of Table 1) in 1900;
One (No. 5) was adopted on the second submission in 1912 (No. 22 of Table 1);
One (No. 10) is again pending (No. 3 of Table 2) to be determined at the election of 1920, and
Four (Nos. 3, 6, 7 and 9) are the same proposal, four times submitted and defeated in 1890, 1902, 1908 and 1910, respectively.

APPENDIX B.

CONSTITUTION OF THE STATE OF KANSAS.

Adopted at Wyandotte, July 29, 1859, with amendments incorporated and annotated to September 1, 1919.

ART.

Ordinance. §§ 95-103.
Preamble. § 104.
Bill of rights. §§ 105-124.
1. Executive. §§ 125-140.
2. Legislative. §§ 141-169.
3. Judicial. §§ 170-189.
4. Elections. §§ 190-194.
5. Suffrage. §§ 195-202.
6. Education. §§ 203-211.
7. Public institutions. §§ 212-215.
8. Militia. §§ 216-219.
9. County and township organization. §§ 220-224.
10. Apportionment. §§ 225-227.
11. Finance and taxation. §§ 228-235.
12. Corporations. §§ 236-241.
13. Banks and currency. §§ 242-250.
14. Amendments. §§ 251-252.
15. Miscellaneous. §§253-262.
Schedule. §§ 263-287.
Resolutions.

ACCEPTANCE OF GRANT FROM CONGRESS; ORDINANCE; PREAMBLE.

§1. Sections sixteen and thirty-six, or contiguous lands, granted for schools.
2. Seventy-two sections for state university.
3. Thirty-six sections for erecting public buildings.
4. Seventy-two sections for erection and maintenance of charitable institutions.
5. Salt springs and mines to state for public improvement.
6. Five per cent of proceeds from public lands to fund for schools.
7. Five hundred thousand acres granted to state for common schools.
8. Lands to be selected as prescribed by law, with approval of commissioner.

ORDINANCE.

WHEREAS, The government of the United States is the proprietor of a large portion of the lands included in the limits of the state of Kansas as defined by this constitution; and,

WHEREAS, The State of Kansas will possess the right to tax said lands for purposes of government, and for other purposes: now, therefore,

Be it ordained by the people of Kansas:

§ 95.* That the right of the state of Kansas to tax such lands is relinquished forever, and the state of Kansas will not interfere with the title of the United States to such lands, nor with any regulation of congress in relation thereto, nor tax nonresidents higher than residents: *Provided always,* That the following conditions be agreed to by congress:

§ 96. SCHOOL SECTIONS. § 1. Sections numbered sixteen and thirty-six in each township in the state, including Indian reservations and trust lands, shall be granted to the state for the exclusive use of common schools; and when either of said sections, or any part thereof, has been disposed of, other lands of equal value, as nearly contiguous thereto as possible, shall be substituted therefor.

* Boldface figures are the running section numbers of the General Statutes of 1915.

§ 97. UNIVERSITY LANDS. § 2. That seventy-two sections of land shall be granted to the state for the erection and maintenance of a state university.

§ 98. LANDS FOR PUBLIC BUILDINGS. § 3. That thirty-six sections shall be granted to the state for the erection of public buildings.

§ 99. LANDS FOR BENEVOLENT INSTITUTIONS. § 4. That seventy-two sections shall be granted to the state for the erection and maintenance of charitable and benevolent institutions.

§ 100. SALT SPRINGS AND MINES. § 5. That all salt springs, not exceeding twelve in number, with six sections of land adjacent to each, together with all mines, with the lands necessary for their full use, shall be granted to the state for works of public improvement.

§ 101. PROCEEDS TO SCHOOLS. § 6. That five per centum of the proceeds of the public lands in Kansas, disposed of after the admission of the state into the union, shall be paid to the state for a fund, the income of which shall be used for the support of common schools.

§ 102. SCHOOL LANDS. § 7. That the five hundred thousand acres of land to which the state is entitled under the act of congress entitled "An act to appropriate the proceeds of the sales of public lands and grant preëmption rights," approved September 4th, 1841, shall be granted to the state for the support of common schools.

§ 103. SELECTION OF LANDS. § 8. That the lands hereinbefore mentioned shall be selected in such manner as may be prescribed by law; such selections to be subject to the approval of the commissioner of the general land office of the United States.

PREAMBLE.

§ 104. We, the people of Kansas, grateful to Almighty God for our civil and religious privileges, in order to insure the full enjoyment of our rights as American citizens, do ordain and establish this constitution of the state of Kansas, with the following boundaries, to wit: Beginning at a point on the western boundary of the state of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence running west on said parallel to the twenty-fifth meridian of longitude west from Washington; thence north on said meridian to the fortieth parallel of north latitude; thence east on said parallel to the western boundary of the state of Missouri; thence south with the western boundary of said state to the place of beginning.

BILL OF RIGHTS.

§1. Equal and inalienable rights.
2. Political power, inherent; free governments: no special privileges granted, except by legislature, and which may be revoked.
3. Right of people to assemble, to petition government, etc.
4. Right of people to bear arms; standing armies; military in subordination to civil power.
5. Right of trial by jury inviolate.
6. No slavery; or involuntary servitude, except for crimes.
7. Religious liberty; no religious or property tests; no witness incompetent because of religion.
8. Writ of habeas corpus not to be suspended.
9. When entitled to bail; excessive bail; cruel or unusual punishment.
10. Rights of accused; speedy trial by impartial jury; twice in jeopardy.
§11. Freedom of speech; liberty of press; libel.
12. No transportation, corruption of blood or forfeiture of estate.
13. Treason defined; evidence necessary to convict.
14. Quartering of soldiers in houses.
15. No searches and seizures, except proper warrant supported by oath.
16. No imprisonment for debt except for fraud.
17. No distinction between rights of citizens of Kansas and other states as to property; rights of aliens regulated by law.
18. Remedy by due course of law; justice without delay.
19. No hereditary emoluments, etc., granted by state.
20. Rights retained by people; powers not delegated remain with people.

§ 105. EQUAL RIGHTS. § 1. All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness.

Not collection of generalities, but affirmation of sovereignty of people. Atchison Street Rly. Co. v. Mo. Pac. Rly. Co., 31 K. 660.
Legislature may grant city authority to permit street railways therein. Atchison Street Rly. Co. v. Mo. Pac. Rly. Co., 31 K. 660.
Legislative investigating committee not given power to imprison for contempt. *In re* Davis, 58 K. 368.
Act providing attorney's fee in certain actions against railroads, valid. Railroad Co. v. Matthews, 58 K. 447.
Ordinance declaring place nuisance where persons resort to "drink," valid. Topeka v. Raynor, 61 K. 10.
Not violated by act requiring water-supply companies to file statements. Leavenworth v. Water Co., 62 K. 643.
Act creating board of medical registration and examination held valid. The State v. Wilcox, 64 K. 789.
Declaring places common nuisances, etc., where intoxicating liquor sold, valid. The State v. McManus, 65 K. 720.
Act prohibiting discharging employee because member of labor organization, void. Brick Co. v. Perry, 69 K. 297.
Act prescribing rates and regulating charges of public stockyards, valid. Ratcliff v. Stockyards Co., 74 K. 1.
Legislature may authorize charter board to regulate establishment of banks. Schaake v. Dolley, 85 K. 598.
Inheritance tax law of 1909 does not violate this section. The State, *ex rel.*, v. Cline, 91 K. 416.
Act requiring bathhouses at coal mines held valid. The State v. Reaser, 93 K. 628.
Employer may contract with employee concerning membership in labor organization. Coppage v. Kansas, 236 U. S. 23.
Agency created by the state must act reasonably, not arbitrarily. Drainage Dist. v. Rly. Co., 99 K. 189.
Ch. 331, Laws 1917 (regulating use of trading stamps) valid. State v. Wilson 101 K. 795.
State industrial farm for women provides equal protection of laws. *In re* Dunkerton, 104 K. 481.

§ 106. POLITICAL POWER; PRIVILEGES. § 2. All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the legislature, which may not be altered, revoked or repealed by the same body; and this power shall be exercised by no other tribunal or agency.

Not violated by authorizing cities and counties to aid railroads. The State, *ex rel.*, v. Nemaha County, 7 K. 542.
Cited, case holding woman eligible to office of county superintendent. Wright v. Noell, 16 K. 601.
Authority may be given cities to permit street railways therein. Atchison Street Rly. Co. v. Mo. Pac. Rly. Co., 31 K. 660.
Does not permit city to break contract with water company. Water-works Co. v. City of Columbus, 48 K. 99.
City may not grant a monopoly for ordinary business therein. *In re* Lowe, *Petitioner*, 54 K. 757. (This case overruled by O'Neal v. Harrison, 96 K. 339, *post.*)
"Occupying-claimant act" does not violate this section. Deitzler v. Wilhite, 55 K. 200.
Legislature may alter corporate charter. Cited in dissenting opinion. The State v. Haun, 61 K. 146.
Veterans' preference law does not violate this section. Goodrich v. Mitchell, 68 K. 765.
Act requiring druggist permit to sell intoxicating liquor, held valid. The State v. Durein, 70 K. 13.
Inheritance tax law of 1909 does not violate this section. The State, *ex rel.*, v. Cline, 91 K. 416.
State cannot relinquish title to islands to individuals without compensation. Winters v. Meyers, 92 K. 414.
Initiative and referendum for cities of first class, held valid. The State, *ex rel.*, v. City of Hutchinson, 93 K. 405.
Not violated by act requiring bathhouses at coal mines. The State v. Reaser, 93 K. 628.
City may grant exclusive right for removal of garbage. O'Neal v. Harrison, 96 K. 339.
State auditor may not question legislative power to grant special privilege. Hicks v. Davis, 97 K. 314.
Public grant of power not a privilege to injure public. Drainage Dist. v. Rly. Co., 99 K. 212.
"City manager plan" statute does not delegate legislative powers. State, *ex rel.*, v. City of Wichita, 100 K. 401.
Ch. 331, Laws 1917, regulating use of trading stamps valid. State v. Wilson, 101 K. 795.
Authorizing miners and mine-owners to regulate explosives' use not a delegation of legislative powers. Richards v. Coal Co., 104 K. 332.
Ch. 284, Laws 1917 (forming rural high schools), not a delegation of such power. State, *ex rel.*, v. Lamont, 105 K. 134.

§ 107. PETITION, ETC. § 3. The people have the right to assemble, in a peaceable manner, to consult for their common good, to instruct their representatives, and to petition the government, or any department thereof, for the redress of grievances.

§ 108. BEAR ARMS; ARMIES. § 4. The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power.

No limitation on power to prohibit promiscuous carrying of arms. Salina v. Blaksley, 72 K. 230.

§ 109. TRIAL BY JURY. § 5. The right of trial by jury shall be inviolate.

Verdict of jury must be verdict of each individual juror. Bowman v. Wheaton, 2 K. A. 581.
Superadded conditions of recognizance not cause for dismissal on appeal. City of Kansas City v. Hescher, 4 K. A. 782.
Applied only to cases so triable at common law. Kimball *et al.* v. Connor *et al.*, 3 K. 414.
In quo warranto defendant is "probably" entitled to jury trial. The State, *ex rel.*, v. Allen, 5 K. 213.
Municipal court try without jury when jury obtainable on appeal. City of Emporia v. Volmer, 12 K. 622.
In action for recovery of money, jury may be demanded. Board of Education v. Scoville, 13 K. 17.
Court may send any issues in equity case to jury. Hixon v. George, 18 K. 256.
Provision for jury not vital in proceedings to correct assessments. Ross v. Commissioners of Crawford Co., 16 K. 411.
Duty of courts to enforce rigid observance of statutes. The State v. Snyder, 20 K. 306.
Jury trial not matter of right in action for divorce. Carpenter v. Carpenter, 30 K. 718.
Where no jury in first instance, right on appeal inviolate. *In re* Rolfs, *Petitioner*. 30 K. 761.
Power of legislature limited by provisions of bill of rights. Atchison Street Rly. Co. v. Mo. Pac. Rly. Co., 31 K. 665.
Not entitled to jury in "proceedings in aid of execution." *In re* Burrows, *Petitioner*, 33 K. 677.
Not entitled to trial by jury for violating city ordinance. The State, *ex rel.*, v. City of Topeka, 36 K. 85.
Jury not necessary in proceedings to annex land to city. Callen v. Junction City, 43 K. 629.
Appeal to court with jury, must be without unreasonable restrictions. *In re* Jahn, *Petitioner*, 55 K. 697.
Twelve jurors necessary in trial on felony charge. The State v. Simons, 61 K. 752.
Jury not guaranteed in proceedings to establish boundary lines. Swarz v. Ramala, 63 K. 636.
Trial in police court without jury does not violate section. *In re* Effie Kinsel, 64 K. 3.
Declaring places common nuisances where intoxicating liquor sold, etc., valid. The State v. McManus, 65 K. 722.
Jury not demandable as matter of right in quo warranto. Wheeler v. Caldwell, 68 K. 776.
Right to jury of twelve may be waived in misdemeanors. The State v. Wells, 69 K. 793.
Not entitled to jury in injunction under prohibitory liquor law. Cowdrey v. The State, 71 K. 450.
Cities may destroy intoxicating liquor and property used in selling. Stahl v. Lee, 71 K. 519.
Jury to try title to and possession of real estate. Atkinson v. Crowe, 80 K. 163.
In partition, jury to try ownership and right of possession. Gordon v. Munn, 83 K. 242.
Section not violated by jury of four in lunacy inquest. The State v. Linderholm, 84 K. 603.
Act providing for charging of expenses by entomological commission, valid. Balch v. Glenn, 85 K. 739.
Execution (for debt) issues against body of person convicted of fraud. Tatlow v. Bacon, 101 K. 30.

§ 110. SLAVERY PROHIBITED. § 6. There shall be no slavery in this state; and no involuntary servitude, except for the punishment of crime, whereof the party shall have been duly convicted.

Act requiring work on roads to pay poll tax, valid. *In re* Dassler, *Petitioner*, 35 K. 684.
Does not prohibit labor on streets for poll taxes. The State, *ex rel.*, v. City of Topeka, 36 K. 85.
Ordinance permitting employment of city prisoners on streets held valid. City of Topeka v. Boutwell, 53 K. 30.

§ 111. RELIGIOUS LIBERTY. § 7. The right to worship God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend or support any form of worship; nor shall any control of or interference with the rights of conscience be permitted, nor

any preference be given by law to any religious establishment or mode of worship. No religious test or property qualification shall be required for any office of public trust, nor for any vote at any election; nor shall any person be incompetent to testify on account of religious belief.

Disbelief in existence of God does not render witness incompetent. Dickinson v. Beal, 10 K. A. 233.
Courts will not interfere with worship beyond carrying out trust. Feizel v. Trustees of German M. E. Society, 9 K. 595.
Courts may restrain minority from perversion of church property. Hackney v. Vawter, 39 K. 630.
Ordinance requiring authority from mayor for all street demonstrations, void. Anderson v. City of Wellington, 40 K. 181.
Repeating Lord's Prayer and Twenty-third Psalm permitted in public schools. Billard v. Board of Education, 69 K. 53.
Provision applies only to offices and elections contemplated by constitution. The State v. Monahan, 72 K. 492.

§ 112. HABEAS CORPUS. § 8. The right to the writ of habeas corpus shall not be suspended, unless the public safety requires it in case of invasion or rebellion.

§ 113. BAIL. § 9. All persons shall be bailable by sufficient sureties except for capital offenses where proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

Confinement five to twenty-one years for rape, not unconstitutional. The State v. White, 44 K. 514.
At hard labor in penitentiary, not cruel or unusual punishment. The State v. White, 44 K. 514.
Fine and jail sentence held not cruel or unusual punishment. Ratcliff v. Stock-yards Co., 74 K. 16.
Confinement when unable to pay fine and costs, not violative. *In re* Ellis, 76 K. 370.
Crime committed when penalty is death, amended afterwards, not bailable. *In re* Schneck, 78 K. 210.
Defendant after conviction of felony is entitled to bail. *In re* Truskett, 84 K. 877.
Bond required of appealing defendant not to violate law, valid. The State v. Coletti, 102 K. 525.

§ 114. TRIAL; DEFENSE OF ACCUSED. § 10. In all prosecutions, the accused shall be allowed to appear and defend in person or by counsel; to demand the nature and cause of the accusation against him; to meet the witness face to face, and to have compulsory process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed. No person shall be a witness against himself, or be twice put in jeopardy for the same offense.

Second trial at defendant's request, held not twice in jeopardy. The State v. McCord, 8 K. 242.
Juror who has formed any opinion is not impartial juror. The State v. Medlicott, 9 K. 279.
Simple impression not opinion such as renders juror partial. The State v. Medlicott, 9 K. 279.
Dissenting opinion.—Any opinion formed by juror disqualifies him. The State v. Medlicott, 9 K. 292.
Nature of accusations need not state whether principal or accessory. The State v. Cassaday, 12 K. 555.
Trial for contempt by judge without jury, held not error. The State v. Cutler, 13 K. 134.
Finding of "not guilty" by court precludes another trial. City of Olathe v. Adams, 15 K. 391.
Juror who has formed opinion is not an impartial juror. The State v. Brown, 15 K. 400.
Trial by impartial jury of county, etc., may be waived. The State v. Potter, 16 K. 97.
Mere preliminary examination is not being put "in jeopardy." The State v. Jones, 16 K. 610.
Defendant has right to demand nature and cause of accusation. The State v. Behee, 17 K. 404.
Not error for jury to inspect premises without defendant accompanying. The State v. Adams, 20 K. 323.
Trial in another county but same district held not error. The State v. Ruth, 21 K. 589.
Territory attached to judicial district becomes part of district. *In re* Holcomb, *Petitioner*, 21 K. 636.
Where trial terminated by unavoidable casualty, defendant not "in jeopardy." *In re* Scrafford, *Petitioner*, 21 K. 746.

Defendant has right to delay to compel attendance of witnesses. The State v. Roark, 23 K. 152.
Matters growing out of same difficulty may constitute two offenses. City of Olathe v. Thomas, 26 K. 233.
Names of persons to whom liquor sold held not necessary. The State v. Schweiter, 27 K. 508.
Not necessary to state kind or class of liquor sold. The State v. Stearns, 28 K. 156.
Not error to retain juror truth of whose opinion conceded. The State v. Wells, 28 K. 322.
Juror incompetent who had formed opinion founded on rumor only. The State v. Miller, 29 K. 47.
Not error to order expert examination of person of defendant. A. T. & S. F. Rld. Co. v. Thul, 29 K. 474.
State may not treat trial of misdemeanor as mere preliminary. *In re* Donnelly, *Petitioner*, 30 K. 197.
Entitled to jury on appeal if not in first instance. *In re* Rolfs, *Petitioner*, 30 K. 760.
Witness compelled to testify in proceedings in aid of execution. *In re* Burrows, *Petitioner*, 33 K. 677.
Error to convict of offense not contemplated when information filed. The State v. Brooks, 33 K. 713.
Information held to comply with letter and spirit hereof. The State v. Whisner, 35 K. 276.
"All prosecutions" held to mean for violating state laws only. The State, *ex rel.*, v. City of Topeka, 36 K. 87.
Right to argument of counsel cannot be denied to defendant. The State v. Verry, 36 K. 420.
Conviction on one count precludes later trial as to others. The State v. McNaught, 36 K. 627.
Information, larceny prosecutions, must give definite description of property stolen. The State v. Tilney, 38 K. 714.
Entitled to discharge on habeas corpus when trial unnecessarily delayed. *In re* McMicken, *Petitioner*, 39 K. 408.
Change of venue to be to county designated by defendant. The State v. Knapp, 40 K. 149.
Not error to overrule motions failing to point out defects. The State v. Reno, 41 K. 679.
Juror not impartial who admits impression of guilt or innocence. The State v. Beatty, 45 K. 502.
Inducing witnesses to avoid process, accused not compelled to testify. *In re* Nickell, *Petitioner*, 47 K. 737.
Plea of guilty under fear of mob violence, not binding. The State v. Calhoun, 50 K. 532.
Change of venue cannot be made without consent of accused. The State v. Kindig, 55 K. 117.
Property stolen, removed to another county, larceny tried either place. The State v. Price, 55 K. 608; The State v. Wade, 55 K. 693.
Evidence on former trial not read without consent of defendant. The State v. Folk, 57 K. 257.
Defendant's consent necessary to reading of deposition taken by him. The State v. Tomblin, 57 K. 843.
Error to compel defendants to plead in absence of counsel. The State v. Moore, 61 K. 734.
Defendant's consent to eleven jurors in felony case, not binding. The State v. Simons, 61 K. 754.
Jury trial does not extend to violation of city ordinances. *In re* Kinsel, 64 K. 3.
Plea of "former jeopardy" not good where former jury disagree. The State v. Alexander, 66 K. 730.
Evidence given by witness on former trial may be introduced. The State v. Nelson, 68 K. 566.
Defendant may be compelled to testify where immunity granted him. The State v. Jack, 69 K. 391.
Defendant may waive right to jury of twelve in misdemeanor. The State v. Wells, 69 K. 793.
Witness may be compelled to testify where immunity granted him. *In re* John Bell, *Petitioner*, 69 K. 855.
Testimony given at preliminary introduced on trial on proper showing. The State v. Harmon, 70 K. 477.
Statements made by defendants out of court may be admitted. The State v. Inman, 70 K. 894.
Immunity from second jeopardy, personal privilege, which defendant may waive. The State v. White, 71 K. 360.
Testimony given in civil case not admissible over defendant's objection. The State v. Woods, 71 K. 658.
Defendant not denied "speedy trial" pending appeal from motion by state. The State v. Campbell, 73 K. 695.
In contempt for violating injunction, defendant not entitled to jury. The State v. Thomas, 74 K. 368.
When jury discharged on "accident" defendant may be tried again. The State v. Hansford, 76 K. 681.
Where defendant produced revolver through intimidation evidence of same admissible. The State v. Turner, 82 K. 794.
Verdict of acquittal cannot be set aside to any purpose. The State v. Lyon, 83 K. 168.
Jury having tried similar case with same witnesses not impartial. The State v. Hammon, 84 K. 141.
Purpose, to secure jury free from bias, prejudice or interest. The State v. Stewart, 85 K. 404.
Nonresident father punished under desertion act when proper facts shown. *In re* Fowles, 89 K. 433.

Defendant in bastardy proceeding not entitled to jury. The State, *ex rel.*, v. Herbert, 96 K. 490.
Accused waives constitutional guaranties by free plea of guilty. *In re* Mote, 98 K. 804.
Ch. 179, Laws 1913, "white slave law," valid. The State v. Fleeman, 102 K. 677.
Accused, notified, not objecting to jury visiting scene waives guaranty. The State v. Stratton, 103 K. 227.
Testimony taken at witness' sick-bed in notified accused's absence, valid. The State v. Van Wormer, 103 K. 322.
Cross-examination accused, testifying voluntarily, on statement made at "inquisition," proper. The State v. Harris, 103 K. 349.
Statute disinheriting spouse killing consort-spouse in decedent's estate is constitutional. Hamblin v. Marchant, 104 K. 693.

§ 115. THE PRESS; LIBEL. § 11. The liberty of the press shall be inviolate; and all persons may freely speak, write or publish their sentiments on all subjects, being responsible for the abuse of such right; and in all civil or criminal actions for libel, the truth may be given in evidence to the jury, and if it shall appear that the alleged libelous matter was published for justifiable ends, the accused party shall be acquitted.

Law applicable to civil and criminal cases distinguished and defined. Castle v. Houston, 19 K. 422.
"Truth" full defense to civil action for slander or libel. Mundy v. Wright, 26 K. 176.
All evidence admissible tending to prove truth of statements made. The State v. Mayberry, 33 K. 444.
Defendant need prove only truth and publication for justifiable ends. The State v. Verry, 36 K. 421.
Publication concerning attorney not privileged by connection with judicial proceedings. The State v. Wait, 44 K. 316.
Publication devoted largely to scandals and immorality may be prohibited. *In re* Banks, *Petitioner*, 56 K. 243.
Privileged publication and "liberty of the press" discussed at length. Coleman v. MacLennan, 78 K. 711.
Employer not compelled to state cause for discharge of employee. Railway Company v. Brown, 80 K. 315.
Spoken words imputing unchastity actionable without proof of special damages. Cooper v. Seaverns, 81 K. 271.

§ 116. NO PERSON TRANSPORTED, ETC. § 12. No person shall be transported from the state for any offense committed within the same, and no conviction in the state shall work a corruption of blood or forfeiture of estate.

Not violated by penalty for violation of intoxicating-liquor law. The State v. Snyder, 34 K. 426.
Husband inherits from deceased wife even though he murdered her. McAllister v. Fair, 72 K. 533.
Statute disinheriting spouse killing consort-spouse does not work a forfeiture. Hamblin v. Marchant, 103 K. 508.

§ 117. TREASON. § 13. Treason shall consist only in levying war against the state, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the overt act, or confession in open court.

§ 118. SOLDIERS. § 14. No soldier shall, in time of peace, be quartered in any house without the consent of the occupant, nor in time of war, except as prescribed by law.

§ 119. SEARCH AND SEIZURE. § 15. The right of the people to be secure in their persons and property against unreasonable searches and seizures, shall be inviolate; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons or property to be seized.

Defective verification waived by recognizance and consent to continuance. The State v. Hook, 4 K. A. 454.
Complaint verified on hearsay and belief insufficient to authorize warrant. The State v. Gleason, 32 K. 249.
Defendant may, by conduct, waive objections to verification of complaint. The State v. Blackman, 32 K. 617.
Where information, properly verified, states offense, clerk may issue warrant. The State v. Brooks, 33 K. 711.
Arrest for misdemeanor requires warrant unless officer sees offense committed. *In re* Kellam, *Petitioner*, 55 K. 702.

Warrant may issue when complaint regular in form and verified. The State v. Carey, 56 K. 86.
Warrant may issue only upon complaint duly sworn to. Topeka v. Raynor, 61 K. 12.
Section not violated in compelling banker to disclose depositor's account. *In re* Davies, 68 K. 795.
When complaint properly filed and verified "John Doe" warrant may issue. The State v. King, 71 K. 289.
Giving recognizance without objection to warrant waives objection to verification. The State v. Miller, 87 K. 455.

§ 120. IMPRISONMENT FOR DEBT. § 16. No person shall be imprisoned for debt, except in cases of fraud.

Act authorizing arrest and imprisonment on plaintiff's affidavit alone, unconstitutional. *In re* Roberts, *Petitioner*, 4 K. A. 296.
Garnishee cannot be imprisoned for failure to pay his debt. Board of Education v. Scoville, 13 K. 33.
Prosecuting witness in misdemeanors, certain cases, imprisoned till costs paid. *In re* John Ebenhack, *Petitioner*, 17 K. 622.
Bond given when debtor only in custody, held valid. Doyle v. Boyle, 19 K. 172.
Fraud must be clearly shown to sustain imprisonment for debt. Tennent, Walker & Co. v. Weymouth & Golden, 25 K. 23.
Affidavit must show grounds provided for arrest or proceedings void. Hauss v. Kohlar, 25 K. 644.
Bill of rights not mere collection of glittering generalities. Atchison Street Rly. Co. v. Mo. Pac. Rly. Co., 31 K. 665.
In proceedings in aid of execution, court may imprison for contempt. *In re* Burrows, *Petitioner*, 33 K. 680.
Imprisonment under bastardy act does not violate this section. *In re* Wheeler, *Petitioner*, 34 K. 97.
Imprisonment for failure to pay costs, not imprisonment for debt. *In re* Boyd, *Petitioner*, 34 K. 574.
Imprisonment for failure to pay road tax does not violate. *In re* Dassler, *Petitioner*, 35 K. 678.
Execution against person of judgment debtor not forbidden by section. *In re* Heath, *Petitioner*, 40 K. 337.
Section would not compel legislature to imprison for fraudulent debt. The State v. Weiss, 84 K. 168.
In conviction of fraud, imprisonment of person may be decreed. Tatlow v. Bacon, 100 K. 29.

§ 121. PROPERTY RIGHTS OF CITIZENS AND ALIENS. § 17. No distinction shall ever be made between citizens of the state of Kansas and the citizens of other states and territories of the United States in reference to the purchase, enjoyment or descent of property. The rights of aliens in reference to the purchase, enjoyment or descent of property may be regulated by law.

This section was submitted by the legislature at the session of 1887 (L. 1887, senate joint resolution No. 6), and was adopted by the people at the election held in November, 1888. Original section 17 was as follows:

"§ 17. No distinction shall ever be made between citizens and aliens in reference to the purchase, enjoyment or descent of property."

Attachment against nonresidents without undertaking does not violate this section. Head v. Daniels, 38 K. 10.
Husband conveying lands when wife nonresident, wife retains no interest. Buffington v. Grosvenor, 46 K. 733.
Attachment against nonresident executor on obligation of nonresident not violative. Manley v. Mayer, 68 K. 380.
Common-law right of aliens abrogated by original section 17. Madden v. The State, 68 K. 660.
Under original section statute descents and distributions applied to aliens. Sparks v. Bodensick, 72 K. 7.
Section authorizes legislature to regulate, not to prohibit, aliens inheriting. The State v. Ellis, 72 K. 290.
Legislature can now regulate right of aliens holding real estate. Cramer v. McCann, 83 K. 723.
Amendment of this section without statute reinstated the common-law rule. Johnson v. Olson, 92 K. 821.

§ 122. JUSTICE WITHOUT DELAY. § 18. All persons, for injuries suffered in person, reputation or property, shall have remedy by due course of law, and justice administered without delay.

"Due process of law" decisions have little application in Kansas. Gilchrist v. Schmidling, 12 K. 271.
Granting attorney fees in actions for killing stock, not unconstitutional. K. P. Rly. Co. v. Mower, 16 K. 582.

Redress for all injuries suffered provided for in "civil action." A. T. & S. F. Rld. Co. v. Rice, 36 K 599.
Section not violated by ordinance providing extension of city limits. Callen v. Junction City, 43 K. 629.
Cited in case discussing jurisdiction writ of error *coram nobis*. The State v. Calhoun, 50 K. 532.
"Occupying-claimant act" does not conflict with this section. Deitzler v. Wilhite, 55 K. 203.
Legislative investigating committee not given power to imprison for contempt. *In re* Davis, 58 K. 373.
Attorneys' fees in action against railroads for causing fire, constitutional. Railroad Co. v. Matthews, 58 K. 450.
Act providing for condemnation of site for schoolhouse, held valid. Buckwalter v. School District, 65 K. 606.
"Remedy" means by tribunal having jurisdiction; section not satisfied otherwise. Hanson v. Krehbiel, 68 K. 672.
Words of section not given unlimited signification in all cases. Coleman v. MacLennan, 78 K. 722.
Common-law interpretation not strictly applied in slander by spoken words. Cooper v. Seaverns, 81 K. 284.
Mere irregularity in administering law does not deny constitutional right. Griggs v. Hanson, 86 K. 632.
Workmen's compensation act of 1911 does not violate this section. Shade v. Cement Co., 93 K. 257, 258.
Every person is entitled to contract relative to his employees. Coppage v. Kansas, 236 U. S. 23.
Court denying divorce may, nevertheless, divide property between the parties. Putnam v. Putnam, 104 K. 51.

§ 123. EMOLUMENTS, ETC. § 19. No hereditary emoluments, honors, or privileges shall ever be granted or conferred by the state.

§ 124. POWERS NOT DELEGATED. § 20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

Legislative power not given to courts. Appeals regulated by legislature. Coleman v. Newby, 7 K. 87.
Legislative power includes power to authorize municipal aid to railroads. Leavenworth County v. Miller, 7 K. 490.
Consent of legislature to alienation of public grounds is binding. Comm'rs of Franklin Co. v. Lathrop, 9 K. 463.
Powers of people limited only by absolute justice and constitution. Wright v. Noell, 16 K. 603.
Bill of rights not a mere collection of glittering generalities. Atchison Street Rly. Co. v. Mo. Pac. Rly. Co., 31 K. 665.
Legislative powers are limited only by state and federal constitutions. Ratcliff v. Stockyards Co., 74 K. 6.

ARTICLE 1.—EXECUTIVE.

GOVERNOR.
§1. Executive department; elected for two years; term, when to begin.
2. Elections, how returned; state canvassers; case of equal vote.
3. Supreme executive powers vested in governor.
4. May require information in writing.
5. Convene legislature on extraordinary occasions; messages; recommend measures.
6. May adjourn both houses in certain cases.
7. Pardoning power.
8. State seal to be kept by governor.
9. Commissions, issued, signed and sealed.
10. Certain officers not eligible as governor.
§11. In case of vacancy, lieutenant governor to act residue of term.
LIEUTENANT GOVERNOR.
12. Lieutenant governor president of senate; shall vote when; president *pro tempore*.
13. Case of vacancy in office of lieutenant governor or when acting as governor.
MISCELLANEOUS.
14. Vacancies in other offices of executive department.
15. Pay of officers of executive department; neither increased nor diminished during term.
16. Officers to report to governor before each session of legislature.

§ 125. EXECUTIVE DEPARTMENT. § 1. The executive department shall consist of a governor, lieutenant governor, secretary of state, auditor, treasurer, attorney-general, and superintendent of public instruction; who shall be chosen by the electors of the state at the time and place of voting for members of the legislature, and shall hold their offices for the term of two years from the second Monday in January next after their election, and until their successors are elected and qualified.

"Members of legislature" includes members of both branches of legislature. The State, *ex rel.*, v. Robinson, 1 K. 17.
Legislative department of government separate and distinct from other departments. Coleman v. Newby, 7 K. 87.
When other adequate remedy, attorney-general cannot enjoin tax collection. The State v. McLaughlin, 15 K. 232.
Legislature not forbidden to confer power on attorney-general and assistants. *In re* Gilson, *Petitioner*, 34 K. 643.
Performance of purely ministerial duties of governor controlled by mandamus. Martin, *Governor*, v. Ingham, 38 K 645.
Legislative, judicial and administrative functions cannot be commingled and interwoven. The State v. Johnson, 61 K. 811.
This section cited in construing section 12, article 3. The State v. Andrews, 64 K. 495.
Dissenting opinion.—State government not modeled on cabinet system. The State, *ex rel.*, v. Dawson, 86 K. 192.
Duties of auditor because undefined are those of common law. Hicks v. Davis, 100 K. 5.

§ 126. ELECTION; CANVASS; TIE. § 2. Until otherwise provided by law, an abstract of the returns of every election, for the officers named in the foregoing section, shall be sealed up and transmitted by the clerks of the boards of canvassers of the several counties, to the secretary of state, who, with the lieutenant governor and attorney-general, shall constitute a board of state canvassers, whose duty it shall be to meet at the state capital on the second Tuesday of December succeeding each election for state officers, and canvass the vote for such officers and proclaim the result; but in case any two or more have an equal and the highest number of votes, the legislature shall by joint ballot choose one of said persons so having an equal and the highest number of votes for said office.

Phrase, "the legislature shall by a joint ballot," defined. Prouty v. Stover, *Lieut. Governor*, 11 K. 257.

§ 127. GOVERNOR. § 3. The supreme executive power of the state shall be vested in a governor, who shall see that the laws are faithfully executed.

Legislative, executive and judicial departments of government separate and distinct. Coleman v. Newby, 7 K. 87.
Performance of purely ministerial duties of governor controlled by mandamus. Martin, *Governor*, v. Ingham, 38 K. 645.
Governor require examination of witnesses by attorney-general under prohibitory law. The State, *ex rel.*, v. Dawson, 86 K. 187.

§ 128. REQUIRE INFORMATION. § 4. He may require information in writing from the officers of the executive department, upon any subject relating to their respective duties.

Governor require examination of witnesses by attorney-general under prohibitory law. The State, *ex rel.*, v. Dawson, 86 K. 187.

§ 129. CONVENE LEGISLATURE; MESSAGE. § 5. He may, on extraordinary occasions, convene the legislature by proclamation, and shall, at the commencement of every session, communicate in writing such information as he may possess in reference to the condition of the state, and recommend such measures as he may deem expedient.

Dissenting opinion.—Governor must necessarily decide which body constitutes house. *In re* Gunn, *Petitioner*, 50 K. 250.
Legislation demanded respecting freight rates, authorized governor to convene legislature. Farrelly v. Cole, 60 K. 362.

§ 130. ADJOURN LEGISLATURE. § 6. In case of disagreement between the two houses in respect to the time of adjournment, he may adjourn the legislature to such time as he may think proper, not beyond its regular meeting.

Dissenting opinion.—Governor must determine which body constitutes house. *In re* Gunn, 50 K. 250.

§ 131. PARDONS. § 7. The pardoning power shall be vested in the governor, under regulations and restrictions prescribed by law.

Not violated by "parole law" conferring power on district court. Mikesell v. Wilson County, 82 K. 504.

§ 132. SEAL. § 8. There shall be a seal of the state, which shall be kept by the governor, and used by him officially; and which shall be the great seal of Kansas.

§ 133. COMMISSIONS. § 9. All commissions shall be issued in the name of the state of Kansas, signed by the governor, countersigned by the secretary of state, and sealed with the great seal.

§ 134. WHO INELIGIBLE. § 10. No member of congress, or officer of the state, or of the United States, shall hold the office of governor, except as herein provided.

Acceptance of specified offices vacates office of governor. The State, *ex rel.*, v. Cobb, 2 K. 57.

§ 135. VACANCY. § 11. In case of the death, impeachment, resignation, removal or other disability of the governor, the power and duties of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the president of the senate.

§ 136. LIEUTENANT GOVERNOR. § 12. The lieutenant governor shall be president of the Senate, and shall vote only when the senate is equally divided. The senate shall choose a president *pro tempore*, to preside in case of his absence or impeachment, or when he shall hold the office of governor.

Bill not necessarily signed by presiding officer to become law. Comm'rs of Leavenworth Co. v. Higginbotham, 17 K. 75.

§ 137. VACANCY. § 13. If the lieutenant governor, while holding the office of governor, shall be impeached or displaced, or shall resign or die, or otherwise become incapable of performing the duties of the office, the president of the senate shall act as governor until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

§ 138. OTHER VACANCIES. § 14. Should either the secretary of state, auditor, treasurer, attorney-general, or superintendent of public instruction, become incapable of performing the duties of his office for any of the causes specified in the thirteenth section of this article, the governor shall fill the vacancy until the disability is removed, or a successor is elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the unexpired term.

§ 139. COMPENSATION. § 15. The officers mentioned in this article shall, at stated times, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

Section discussed in case concerning appropriation for maintaining executive residence. Bailey v. Kelly, 70 K. 874.
Section applied to fees allowed auditor of state. Nation v. Tulley, 86 K. 568.
Statute providing for fees to attorney-general under prohibitory law, valid. The State v. Bland, 91 K. 166.

§ 140. OFFICERS TO REPORT. § 16. The officers of the executive department, and of all public state institutions, shall, at least ten days preceding each regular session of the legislature, severally report to the governor, who shall transmit such reports to the legislature.

Governor may require attorney-general to examine witnesses under prohibitory law. The State, *ex rel.*, v. Dawson, 86 K. 187.

ARTICLE 2.—LEGISLATIVE.

§1. Legislative power, how vested.
2. House of representatives; senate; number limited; basis of representation.
3. Pay of members; mileage; limit.
4. Qualification of members.
5. Members of congress, etc., not eligible; acceptance to vacate seat.
6. Embezzlement or misuse of public funds, to forfeit seat.
7. Oath of office of state officers.
8. Quorum; rules; judges of election of members.
9. Vacancies in either house.
10. Journals; yeas and nays; adjournment.
11. Right of protest; to be entered upon journals.
12. Origin of bills; amendments.
13. Majority elected necessary to pass bills.
14. To be signed by governor; veto power.
15. To be read on three separate days; when this rule may be suspended.
16. Bills to embrace but one subject; laws, how revived or amended.
§17. General laws to be uniform in operation; special laws.
18. No divorces to be granted by legislature.
19. Publication of laws; power to provide for officers; vacancies.
20. Enacting clause; no law except by bill.
21. Local legislation may be allowed.
22. Freedom of debate; privilege of members.
23. Schools; no distinction between sexes as to rights.
24. Money to be drawn from treasury by law; appropriations limited to two years.
25. Sessions held at state capital; when to commence.
26. Census once in ten years—in 1865 and after.
27. Impeachments; to be tried by senate.
28. Officers liable to impeachment; limit of judgment; further trial.
29. General election in 1876; thereafter elect members of house for two years, senate four years.

§ 141. LEGISLATIVE POWER. § 1. The legislative power of this state shall be vested in a house of representatives and senate.

Corporations rightful subject of legislation; grant includes right to create. The City of Atchison v. Bartholow, 4 K. 142.

Legislative, executive and judicial powers of government, separate and distinct. Coleman v. Newby, 7 K. 87.

Legislature no inherent power, but people may delegate any power. Leavenworth County v. Miller, 7 K. 489.

Legislative power delegated included power to pass mill-dam act. Harding v. Funk, 8 K. 323.

Delegation of limited legislative power to county commissioners, not prohibited. Noffziger v. McAllister, 12 K. 320.

Whole power of organizing new counties belongs to legislature. The State, *ex rel.*, v. Comm'rs of Pawnee Co., 12 K. 438.

Legislature may authorize county commissioners to remove treasurer for cause. The State, *ex rel.*, v. Majors, 16 K. 444.

Legislature not prohibited by the constitution from enacting retrospective laws. Comm'rs of Sedgwick Co. v. Bunker, 16 K. 504.

Powers exercised by court in extending city limits are judicial. Callen v. Junction City, 43 K. 630.

Dissenting opinion.—Section cited showing legislative branch separate from others. *In re* Gunn, *Petitioner*, 50 K. 219.

Legislative power delegated only to some tribunal transacting county business. Comm'rs of Wyandotte Co. v. Abbott, 52 K. 160.

Legislative, executive and judicial powers cannot be commingled and interwoven. The State v. Johnson, 61 K. 812.

Retrospective law legalizing warrants, encroachment of legislative upon judicial powers. Felix v. Wallace County, 62 K. 832.

Powers exercised by court in extending city limits are judicial. Eskridge v. Emporia, 63 K. 369.

In readjusting official terms legislature may create an exceptional term. Wilson v. Clark, 63 K. 510.

Legislature in certain cases may create exceptional terms of office. The State v. Andrews, 64 K. 497.

Change of corporate limits by petition before district court, unconstitutional. Hutchinson v. Leimbach, 68 K. 43.

Legislative power is limited only by state or federal constitution. Ratcliff v. Stock-yards Co., 74 K. 16.

Authority for establishing municipal courts is derived from this section. The State v. Keener, 78 K. 651.

Command in constitution does not add to power of legislature. The State v. Lawrence, 79 K. 279.

This section not violated by the initiative and referendum law. The State, *ex rel.*, v. City of Hutchinson, 93 K. 408.

Legislature had authority to enact bank guaranty law. Assaria State Bank v. Dolley, 219 U. S. 121.

"City manager plan act" not delegation of legislative power. The State, *ex rel.*, v. City of Wichita, 100 K. 401.

Legislative grant regulating use of explosives not delegation of power. Richards v. Coal Co., 104 K. 332.
Ch. 284, Laws 1917 (formation rural high schools) not delegation of power. The State, *ex rel.*, v. Lamont, 105 K. 134.

§ 142. SENATORS AND REPRESENTATIVES; NUMBER. § 2. The number of representatives and senators shall be regulated by law, but shall never exceed one hundred and twenty-five representatives and forty senators. From and after the adoption of the amendment the house of representatives shall admit one member for each county in which at least two hundred and fifty legal votes were cast at the next preceding general election; and each organized county in which less than two hundred legal votes were cast at the next preceding general election shall be attached to and constitute a part of the representative district of the county lying next adjacent to it on the east.

This section was submitted by the legislature at the session of 1873 (Laws 1873, ch. 134), and was adopted by the people at the general election held November 4, 1873. Original section 2 was as follows:

"§ 2. The first house of representatives under this constitution shall consist of seventy-five members, who shall be chosen for one year. The first senate shall consist of twenty-five members, who shall be chosen for two years. After the first election, the number of senators and members of the house of representatives shall be regulated by law; but shall never exceed one hundred representatives and thirty-three senators."

Legislature, sole right to judge elections and qualifications of members. The State, *ex rel.*, v. Tomlinson, 20 K. 704.
Votes of members in excess of 125 cannot be counted. The State, *ex rel.*, v. Francis, *Treas.*, 26 K. 737.

§ 143. COMPENSATION OF MEMBERS. § 3. The members of the legislature shall receive as compensation for their services the sum of three dollars for each day's actual service at any regular or special session, and fifteen cents for each mile traveled by the usual route in going to and returning from the place of meeting; but such compensation shall not in the aggregate exceed the sum of two hundred and forty dollars for each member as per diem allowance for the first session held under this constitution, nor more than one hundred and fifty dollars for each session thereafter, nor more than ninety dollars for any special session.

§ 144. QUALIFICATIONS. § 4. No person shall be a member of the legislature who is not at the time of his election a qualified voter of, and a resident in, the county or district for which he is elected.

§ 145. WHO NOT ELIGIBLE. § 5. No member of congress or officer of the United States shall be eligible to a seat in the legislature. If any person, after his election to the legislature, be elected to congress or elected or appointed to any office under the United States, his acceptance thereof shall vacate his seat.

Purpose is to create vacancy upon acceptance of specified offices. The State, *ex rel.*, v. Cobb, 2 K. 57.
Dissenting opinion.—Disability refers to time the person chosen. *In re* Gunn, *Petitioner*, 50 K. 268.

§ 146. SAME. § 6. No person convicted of embezzlement or misuse of the public funds shall have a seat in the legislature.

§ 147. OFFICERS TO TAKE OATH. § 7. All state officers before entering upon their respective duties shall take and subscribe an oath or affirmation to support the constitution of the United States and the constitution of this state, and faithfully to discharge the duties of their respective offices.

§ 148. QUORUM; RULES. § 8. A majority of each house shall constitute a quorum. Each house shall establish its own rules; and shall be judge of the elections, returns and qualifications of its own members.

Legislature itself may provide more than majority for certain acts. Prouty v. Stover, *Lieut. Governor*, 11 K. 255.

Legislature cannot delegate power to judge qualifications of its members. The State, *ex rel.*, v. Gilmore, 20 K. 554.
Legislature, sole right to judge elections and qualifications of members. The State, *ex rel.*, v. Tomlinson, 20 K. 703.
Dissenting opinion.—Origin of clause relative to qualifications commented on. *In re* Gunn, *Petitioner*, 50 K. 218.

§ 149. VACANCIES. § 9. All vacancies occurring in either house shall be filled for the unexpired term by election.

§ 150. JOURNAL; YEAS AND NAYS; ADJOURNMENT. § 10. Each house shall keep and publish a journal of its proceedings. The yeas and nays shall be taken and entered immediately on the journal, upon the final passage of every bill or joint resolution. Neither house, without the consent of the other, shall adjourn for more than two days, Sundays excepted.

Legislature may authorize senate to adjourn legally to later period. The State, *ex rel.*, v. Hillyer, 2 K. 29.
House adopted amendment, no record of yeas and nays, valid. Hayes v. Heller, 12 K. 392.
Procedure relative to yeas and nays discussed at length. Division of County of Howard, 15 K. 194.
Laws to be sustained unless clear showing of invalidity made. Comm'rs of Leavenworth County v. Higginbotham, 17 K. 62.
Dissenting opinion.—Court, determining validity, must go behind enrolled bill. *In re* Gunn, *Petitioner*, 50 K. 257.
Enrolled statute imports absolute verity unless journals clearly show irregularity. The State v. Andrews, 64 K. 474.
Law sustained unless clear affirmative showing of invalidity by journals. Stephens v. Labette Co., 79 K. 159.
Ch. 346, Laws 1917, "Gage's Lincoln statue" resolution meets requirements of a bill. The State, *ex rel.*, v. Knapp, 102 K. 705.

§ 151. PROTEST. § 11. Any member of either house shall have the right to protest against any act or resolution; and such protest shall, without delay or alteration, be entered on the journal.

Legislative journals and enrolled bills, only legislative records required. Division of County of Howard, 15 K. 210.

§ 152. BILLS. § 12. Bills may originate in either house, but may be amended or rejected by the other.

This section was submitted by the legislature at the session of 1864 (Laws 1864, ch. 44), and was adopted by the people at the general election, held November 8, 1864. Original section 12 was as follows:

"§ 12. All bills shall originate in the house of representatives, and be subject to amendment or rejection by the senate."

§ 153. PASSAGE OF. § 13. A majority of all the members elected to each house, voting in the affirmative, shall be necessary to pass any bill or joint resolution.

Legislature may regulate joint conventions and prescribe number votes required. Prouty v. Stover, *Lieut. Governor*, 11 K. 257.
Yeas and nays not shown on journal, law upheld. Hayes v. Heller, 12 K. 392.
Legislative journals and enrolled bills only records required, import verity. Division of County of Howard, 15 K. 194.
May votes of members exceeding constitutional limit be counted? The State, *ex rel.*, v. Tomlinson, 20 K. 704.
Votes of members in excess of constitutional limit not counted. The State, *ex rel.*, v. Francis, *Treas.*, 26 K. 724.
Ch. 346, Laws 1917, "Gage's Lincoln statue" resolution, is a bill. The State, *ex rel.*, v. Knapp, 102 K. 705.

§ 154. SIGNING OF BILL; VETO. § 14. Every bill and joint resolution passed by the house of representatives and senate shall, within two days thereafter, be signed by the presiding officers, and presented to the governor; if he approve, he shall sign it; but if not, he shall return it to the house of representatives, which shall enter the objections at large upon its journal and proceed to reconsider the same. If, after such reconsideration, two-thirds of the members elected shall agree to pass the bill or resolution, it shall be sent, with the objections, to the senate, by which it shall likewise be reconsidered, and if approved by two-thirds of all the

members elected, it shall become a law; but in all such cases the vote shall be taken by yeas and nays, and entered upon the journal of each house. If any bill shall not be returned within three days (Sundays excepted) after it shall have been presented to the governor, it shall become a law in like manner as if he had signed it, unless the legislature, by its adjournment, prevent its return, in which case it shall not become a law. If any bill presented to the governor contains several items of appropriation of money, he may object to one or more of such items, while approving the other portion of the bill; in such case he shall append to the bill, at the time of signing it, a statement of the item or items to which he objects, and the reasons therefor, and shall transmit such statement, or a copy thereof, to the house of representatives, and any appropriations so objected to shall not take effect unless reconsidered and approved by two-thirds of the members elected to each house, and, if so reconsidered and approved, shall take effect and become a part of the bill, in which case the presiding officers of each house shall certify on such bill such fact of reconsideration and approval.

This amendment of section 14, article 2, of the constitution, was submitted by the legislature at the session of 1903 (L. 1903, ch. 545), and was adopted by the people at the election held in November, 1904. The original section was as follows:

"§ 14. Every bill and joint resolution passed by the house of representatives and senate shall, within two days thereafter, be signed by the presiding officers, and presented to the governor; if he approve, he shall sign it; but if not, he shall return it to the house of representatives, which shall enter the objections at large upon its journal and proceed to reconsider the same. If, after such reconsideration, two-thirds of the members elected shall agree to pass the bill or resolution, it shall be sent, with the objections, to the senate, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected, it shall become a law. But in all such cases, the vote shall be taken by yeas and nays, and entered upon the journals of each house. If any bill shall not be returned within three days (Sundays excepted) after it shall have been presented to the governor, it shall become a law in like manner as if he had signed it, unless the legislature, by its adjournment, prevent its return, in which case it shall not become a law."

Annotations to original section:

Procedure in passing bills discussed at length. Division of County of Howard, 15 K. 209.

Signature of presiding officer of senate not essential to validity. Comm'rs of Leavenworth Co. v. Higginbotham, 17 K. 75.

Bill not affected by message of governor after signing and depositing. The State v. Whisner, 35 K. 280.

Annotations to section as amended:

Section presumed complied with unless journals affirmatively, clearly show contrary. Belleville v. Wells, 74 K. 821.

Court will examine legislative journals in connection with enrolled bills. Railway Co. v. Simons, 75 K. 132.

"Within three days" computed by excluding day bill presented. The State v. Sessions, 84 K. 862.

Ch. 346, Laws 1917, in form a resolution, in essentials a bill, signed, law. The State, *ex rel.*, v. Knapp, 102 K. 703.

§ 155. READING OF. § 15. Every bill shall be read on three separate days in each house, unless in case of emergency. Two-thirds of the house where such bill is pending may, if deemed expedient, suspend the rules; but the reading of the bill by sections on its final passage shall in no case be dispensed with.

Legislature determines existence of emergency, need not enter on journal. Weyand v. Stover, *Treas.*, 35 K. 552.

Section is individual unit: bill must be read by sections. The State v. Carter, 74 K. 162.

Presumed section complied with when journal does not show contrary. The State v. Railway Co., 96 K. 609.

§ 156. ONE SUBJECT; TITLE OF ACT; AMENDMENTS. § 16. No bill shall contain more than one subject, which shall be clearly expressed in its title, and no law shall be revived or amended unless the new act contain the entire act revived or the section or sections amended, and the section or sections so amended shall be repealed.

Operation of act restricted to statement of title. City of Concordia v. Hagaman, 1 K. A. 35.
Does not apply to acts before constitution went into effect. Laurent v. The State, 1 K. 313.
Law not revived by repeal of amending act. Renter v. Bauer, 3 K. 503.
Section applied to similar law for construction of city ordinances. City of Troy v. A. & N. Railroad Co., 11 K. 532.
Provisions of this section are mandatory, not merely directory. County of Sedgwick v. Bailey, 13 K. 607.
Title broad and comprehensive as legislature chooses to make it, valid. Division of County of Howard, 15 K. 215.
Laws may be repealed by virtue of this section. Tootle v. Savage, 18 K. 194.
New statute supersedes old by virtue of this section. Comm'rs of Jefferson Co. v. Hudson, 20 K. 72.
Acts amending section of prior statute treated as single statute. Evans and Nelson v. Adams, 21 K. 119.
Compliance with requirements of this section, discussed. City of Eureka v. Davis, 21 K. 579.
This section does not apply to city ordinances. City of Humboldt v. McCoy, 23 K. 249.
Requisites of compliance with this section, discussed at length. The State v. Barrett, 27 K. 217.
Repeal by implication under this section, discussed. Stephens v. Ballou, 27 K. 594.
Enactments at same legislature concerning same subject matter, construed together. *In re* Hall, *Petitioner*, 38 K. 670.
Title need only state general scope and purpose of act. Lynch v. Chase, 55 K. 376.
What covered by title, discussed. Rogers v. Morrill, 55 K. 737.
"Municipal corporations" in title to act may include township. Rathbone v. Hopper, 57 K. 240.
Earlier act repealed by later law covering same subject. The State v. Countryman, 57 K. 823.
Section applies to bills which change law by repealing acts. The State v. Sholl, 58 K. 507.
Courts may refer to the title in ascertaining legislative intent. Baker v. Land Company, 62 K. 79.
Words eliminated from title to give proper meaning to it. Allen v. Hopkins, 62 K. 180.
Where restrictive title used, act must come within its meaning. Topeka v. Wood, 62 K. 810.
Part of act not included in the title, held invalid. Enterprise v. Smith, 62 K. 815.
Comprehensiveness of title to act, discussed. Otto v. Hare, 64 K. 81.
Section to be liberally construed to sustain act. Stewart v. Thomas, 64 K. 515.
Title may be broader than the act itself. Ash v. Thorp, 65 K. 60.
Provision must clearly show intention to take place of former. Gilbert v. Craddock, 67 K. 346.
Statutes not declared repealed by implication unless clearly repugnant. Newman v. Lake, 70 K. 849.
Act held good where subject matter is germane to title. *In re* Schley, 71 K. 266.
Statutes effecting amendment by implication, not within purview of section. Parker-Washington Co. v. Kansas City, 73 K. 722.
Compiler divided section, amendment contained only one part, held unconstitutional. The State v. Carter, 74 K. 156.
Section is to keep members of legislature from being misled. Getty v. Holcomb, 79 K. 226.
Section liberally construed to sustain act. The State v. Topeka Club, 82 K. 756.
Legislature may extend provisions of existing statute to new subject. State v. Board of Comm'rs of Shawnee County, 83 K. 199.
Similar legislative enactment applied to city ordinances. City of Winfield v. Hackney, 87 K. 858.
Section while not invoked so frequently is still in force. The State, *ex rel.*, v. Dawson, 90 K. 841.
Sufficiency of city ordinance title not determined by this section. De Priest v. City of Salina, 101 K. 813.
Requirement does not apply to amendments by necessary implication. The State v. Coletti, 102 K. 525.
Following acts held *valid*, not in conflict with this section:
Ch. 140, Laws of 1895. Higgins v. Mitchell County, 6 K. A. 314.
Ch. 217, Laws of 1895. Inlow v. Graham County, 6 K. A. 391.
Ch. 126, Laws of 1895. Lowe v. Bourbon County, 6 K. A. 603.
Sec. 4, ch. 177, Laws of 1879. Ireton v. Laubner, 9 K. A. 561.
Taxes as between grantor and grantee, Gen. Stat. 1868. Greer v. McCarter, 5 K. 22.
Taxation; statute of limitations relative to tax deeds. Bowman *et al.* v. Cockrill, 6 K. 333.
Ch. 37, Laws of 1863. Davis v. Turner, 21 K. 131.
Sec. 2, ch. 86, Gen. Stat. 1868. City of Eureka v. Davis, 21 K. 578.
Sec. 6, ch. 79, Laws of 1873. *In re* Holcomb, *Petitioner*, 21 K. 628.
Sec. 174, art. 14, ch. 81, Gen. Stat. 1868. Martin v. Borgman, 21 K. 672.
Sec. 4, ch. 149, Laws of 1879. The State, *ex rel.*, v. Ewing, 22 K. 708.
Secs. 9 and 10 of dramshop act. Werner v. Edmiston, 24 K. 147.
Art. 17 of code of criminal procedure. Woodruff v. Baldwin, 23 K. 491.
Sec. 31, ch. 72, Laws of 1873. Philpin v. McCarty, *Supt.*, 24 K. 393.
Ch. 34, Laws of 1876. Keith v. Keith, 26 K. 39.
Ch. 29, Laws of 1869. Comm'rs of Marion County v. Comm'rs of Harvey County, 26 K. 196.
Ch. 113, Laws of 1877. Comm'rs of Norton County v. Shoemaker, 27 K. 77.
Sec. 21, ch. 128, Laws of 1881. The State v. Schweiter, 27 K. 500.

Sec. 15, ch. 128, Laws of 1881. Jockers v. Borgman, 29 K. 109.
Sec. 13, ch. 25, Laws of 1879. Burroughs v. Comm'rs of Norton County, 29 K. 197.
Sec. 3, ch. 128, Laws of 1881. The State v. Curtis, 29 K. 384.
Secs. 303-305, Comp. Laws of 1879. John v. Reaser, 31 K. 406.
Sec. 18, prohibitory liquor law of 1881. Hardten v. The State, 32 K. 637.
Sec. 15, ch. 128, Laws of 1881. Durein v. Pontius, 34 K. 353.
Sec. 18, prohibitory liquor law of 1881. The State v. Snyder, 34 K. 425.
Ch. 80, Laws of 1883. Weyand v. Stover, *Treas.*, 35 K. 551.
Ch. 146, Laws of 1873. City of Wichita v. Burleigh, 36 K. 41.
Ch. 75, Laws of 1886. Comm'rs of Cherokee County v. The State, *ex rel.*, 36 K. 337.
Ch. 104, Laws of 1883. The State v. Brown, 38 K. 390.
Sec. 4, ch. 179, Laws of 1887. The State, *ex rel.*, v. Cross, 38 K. 696.
Proviso contained in sec. 1, ch. 128, Laws of 1887. The State, *ex rel.*, v. Comm'rs of Haskell County, 40 K. 65.
Ch. 155, Laws of 1885. Mo. Pac. Rly. Co. v. Merrill, 40 K. 404.
Ch. 60, Laws of 1875. The State, *ex rel.*, v. Comm'rs of Kiowa County, 41 K. 630.
Ch. 114, Laws of 1889. The State, *ex rel.*, v. Sanders, 42 K. 230.
Part of sec. 15, ch. 80, Laws of 1879. The State v. Bush, 45 K. 138.
Sec. 7, ch. 138, Laws of 1889. Comm'rs of Norton County v. Snow, 45 K. 332.
Ch. 257, Laws of 1889, so far as relates to insurance. *In re* Pinkney, *Petitioner*, 47 K. 89.
Ch. 61, Laws of 1891. Comm'rs of Barber County v. Smith, 48 K. 332.
Ch. 134, Laws of 1887. Elevator Co. v. Stewart, 50 K. 378.
Sec. 4, ch. 165, Laws of 1887. The State v. Campbell, 50 K. 433.
Chs. 63 and 64, Laws of 1886. The State, *ex rel.*, v. Kansas City, 50 K. 508, 521.
Ch. 102, Laws of 1879. Calloway v. Cooley, 50 K. 743.
Ch. 98, Laws of 1893. The State, *ex rel.*, v. Lewelling, 51 K. 562.
Sec. 1, ch. 131, Laws of 1889 (sec. 422*a*, Civil Code). Berry v. K. C. Ft. S. & M. Rld. Co., 52 K. 759.
Ch. 129, Laws of 1881. *In re* Sanders, *Petitioner*, 53 K. 191.
Ch. 43, Laws of 1891. Blaker v. Hood, 53 K. 499.
Ch. 261, Laws of 1889. City of Eudora v. Darling, 54 K. 654.
Ch. 239, Laws of 1889. Lynch v. Chase, 55 K. 367.
Ch. 106, Laws of 1895. Aikman v. Edwards, 55 K. 751.
Ch. 50, Laws of 1879. Rathbone v. Hopper, 57 K. 240.
Ch. 107, Laws of 1897. *In re* Greer, 58 K. 268.
Ch. 107, Laws of 1889. Baker v. Land Company, 62 K. 82.
Ch. 1, Laws of 1889. Allen v. Hopkins, 62 K. 175.
Sec. 5, ch. 82, Laws of 1897. Leavenworth v. Water Co., 62 K. 643.
Ch. 176, Laws of 1901. Wilson v. Clark, 63 K. 516.
Sec. 2, ch. 128, Laws of 1893. Board of Education v. The State, 64 K. 7.
Ch. 225, Laws of 1889. Otto v. Hare, 64 K. 78.
Sec. 8, ch. 232, Laws of 1901. The State v. Sheppard, 64 K. 451.
Ch. 203, Laws of 1891. Stewart v. Thomas, 64 K. 511.
Sec. 7, ch. 232, Laws of 1901. Wilson v. Herink, 64 K. 607.
Ch. 254, Laws of 1901. The State v. Wilcox, 64 K. 789.
Ch. 339, Laws of 1901. Ash v. Thorp, 65 K. 60.
Ch. 131, Laws of 1897. Hardy v. Kingman County, 65 K. 111.
Sec. 1, ch. 105, Laws of 1886. The State v. Dunn, 66 K. 483.
Ch. 81, Laws of 1879. Reynolds v. Board of Education, 66 K. 672.
Sec. 12, ch. 177, Laws of 1899. School District v. Atzenweiler, 67 K. 609.
Ch. 46, Laws of 1883. Manley v. Mayer, 68 K. 378.
Ch. 34, Laws of 1883. Leavenworth v. Water Co., 69 K. 83.
Ch. 104, Laws of 1885. Wichita v. Telephone Co., 70 K. 441.
Sec. 8, ch. 106, Laws of 1901. The State v. Hahn, 70 K. 877.
Ch. 353, Laws of 1901. *In re* Schley, 71 K. 266.
Ch. 112, Laws of 1905. Parker-Washington Co. v. Kansas City, 73 K. 722.
Ch. 123, Laws of 1901. The State v. Thomas, 74 K. 360.
Ch. 338, Laws of 1903. The State v. Thomas, 74 K. 360.
Ch. 366, Laws of 1901. Clarke v. Lawrence, 75 K. 27.
Ch. 165, Laws of 1887. The State v. Everhardy, 75 K. 851.
Ch. 168, Laws of 1899. Bank v. Pearce, 76 K. 408.
Ch. 93, Laws of 1871. Harrod v. Latham, 77 K. 466.
Sec. 25, ch. 78, Laws of 1893. Getty v. Holcomb, 79 K. 224.
Sec. 3, ch. 222, Laws of 1905. Getty v. Holcomb, 79 K. 224.
Sec. 5, ch. 164, Laws of 1909. The State v. Sherman, 81 K. 874.
Sec. 16, ch. 128, Laws of 1881. The State v. Topeka Club, 82 K. 756.
Ch. 397, Laws of 1905 (Barnes high-school law). Board of Education v. Allen County, 82 K. 782.
Ch. 80, Laws of 1909. The State v. Shawnee County, 83 K. 199.
Chs. 210 and 215, Laws of 1909. The State v. Pauley, 83 K. 456.
Ch. 241, Laws of 1899. Payne v. Barlow, 84 K. 132.
Ch. 142, Laws of 1909. The State v. Prather, 84 K. 170.
Ch. 345, Laws of 1905. Grain and Lumber Co. v. Railway Co., 85 K. 281.
Ch. 112, Laws of 1909. The State, *ex rel.*, v. Meek, 86 K. 577.
Ch. 237, Laws of 1911, as applies to sheriff. The State, *ex rel.*, v. Martin, 87 K. 817.
Ch. 165, Laws of 1911. The State v. Adams, 89 K. 674.
Ch. 130, Laws of 1913. Brewer v. City of Pittsburg, 91 K. 910.
Ch. 165, Laws of 1911. The State v. King, 92 K. 669.
Sec. 27, ch. 109, Laws of 1893. Richey v. Ferguson, 93 K. 152.

Sec. 501, ch. 182, Laws of 1909. Richey v. Ferguson, 93 K. 152.
Ch. 218, Laws of 1911, as amended by ch. 216, Laws of 1913. Shade v. Cement Co., 93 K. 257.
Sec. 46, ch. 218, Laws of 1911. Hovis v. Cudahy Refining Co., 95 K. 505.
Ch. 248, Laws of 1913 (Mahin liquor law). The State v. Railway Co., 96 K. 611.
Ch. 311, Laws of 1915 (rural high-school districts). Rural School District v. Davis, 96 K. 647.
Ch. 179, Laws of 1911. (Subject matter of act is adulteration.) American Linseed Oil Co. v. Crumbine, 207 Fed. 332.
Ch. 124, Laws 1913 (waterworks, cities second and third classes). Hartzler v. City of Goodland, 97 K. 135.
Ch. 123, Laws 1911 (amendment by implication). Milling Co. v. Junction City, 98 K. 253.
Ch. 276, Laws 1905. Freedom Township v. Douglas, 99 K. 179.
Ch. 97, Laws 1864. Drainage District v. Railway Co., 99 K. 188.
Ch. 218, Laws 1911, as amended by ch. 216, Laws 1913. Swader v. Flouring Mills Co., 103 K. 380.
Ch. 284, 1917. State, *ex rel.*, v. Lamont, 105 K. 134.

Following acts held *unconstitutional* and *void*, in conflict with this section:
Sec. 6, ch. 116, Laws of 1871. Shepherd v. Shepherd, 4 K. A. 546.
Ch. 79, Laws of 1872. Comm'rs of Sedgwick County v. Bailey, 13 K. 601.
Ch. 110, Laws of 1871. Swayze v. Britton, 17 K. 625.
Sec. 4, ch. 36, Laws of 1876. Shepherd v. Helmers, 23 K. 504.
Sec. 19, ch. 128, Laws of 1881. The State v. Barrett, 27 K. 215.
Sec. 2, ch. 81, Laws of 1869. M. K. & T. Rly. Co. v. Long, 27 K. 684.
Part of sec. 2, ch. 119, Laws of 1885. *In re* Wood, *Petitioner*, 34 K. 645.
Sec. 9, ch. 107, Laws of 1889, as attempt to repeal, etc. The State, *ex rel.*, v. Pierce, 51 K. 241.
Sec. 28, ch. 152, Laws of 1891. The State v. Lewin, 53 K. 679.
Ch. 95, Laws of 1893. The State v. Deets, 54 K. 504.
Ch. 132, Laws of 1887. Railroad Co. v. Kearny County, 58 K. 20.
Ch. 137, Laws of 1897. The State v. Sholl, 58 K. 507.
Part of ch. 75, Laws of 1891. Topeka v. Wood, 62 K. 809.
Sec. 12, ch. 82, Laws of 1897. Enterprise v. Smith, 62 K. 815.
Ch. 233, Laws of 1901. The State v. Carter, 74 K. 156.
Ch. 237, Laws of 1911, as to certain officers. The State, *ex rel.*, v. Martin, 87 K. 817.
Part of ch. 2, Laws of 1911, relating to fees, etc. The State, *ex rel.*, v. Dawson, 90 K. 842.
Ch. 144, Laws of 1911. Agricultural Society v. Allen County, 93 K. 772.
Ch. 14, Laws of 1915. Hicks v. Davis, 97 K. 318 (rehearing), 97 K. 662.

Acts *repealed* by virtue of this section:
Sec. 76, Code of 1868. Case of Bartholow, 21 K. 308.
Ch. 107, Laws of 1895. The State v. Countryman, 57 K. 815.

§ 157. UNIFORM OPERATION; GENERAL AND SPECIAL LAW. § 17. All laws of a general nature shall have a uniform operation throughout the state; and in all cases where a general law can be made applicable, no special law shall be enacted; and whether or not a law enacted is repugnant to this provision of the constitution shall be construed and determined by the courts of the state.

This section was submitted by the legislature at the session of 1905 (L. 1905, ch. 543), and was adopted by the people at the election held in November, 1906. Original section 17 was as follows:

"§ 17. All laws of a general nature shall have a uniform operation throughout the state; and in all cases where a general law can be made applicable, no special law shall be enacted."

Annotations to original section:

Ch. 271, Laws of 1895, legalizing printer's affidavit, valid. Inlow v. Graham County, 6 K. A. 391.
Ch. 126, Laws of 1895, fees and salaries, valid. Lowe v. Bourbon County, 6 K. A. 603.
Legislature to determine whether general law could be made applicable. The State, *ex rel.*, v. Hitchcock, 1 K. 178.
Did not have retroactive effect of abrogating laws previously passed. The State v. Thompson *et al.*, 2 K. 433.
Act making summoning of grand juries optional with judge, valid. Rice v. The State of Kansas, 2 K. 168.
Section 15 of dram-shop act held constitutional. The State of Kansas v. Young and others, 3 K. 446.
Act permitting municipal aid to railroads, held valid. Leavenworth County v. Miller, 7 K. 491.
Act providing for herd law in certain specified counties, unconstitutional. Darling v. Rodgers, 7 Kan. 592.
Act authorizing certain school districts to issue bonds, valid. Beach v. Leahy, *Treas.*, 11 K. 23.
Act applying only when county commissioners so elect, held valid. Noffzigger v. McAllister, 12 K. 321.

County commissioners cannot apply act in parts of county only. Keyes v. Snyder, 15 K. 143.
Act of general nature, restricted in operation, held void. Robinson v. Perry, 17 K. 248.
Exception in exemption law, relative to claims for wages, valid. McBride v. Reitz, 19 K. 123.
Act taxing railroads in unorganized counties, held constitutional. Francis, *Treas.*, v. A. T. & S. F. Rld. Co., 19 K. 303.
Act regulating certain salaries in certain counties, held valid. Comm'rs of Norton County v. Shoemaker, 27 K. 77.
Act requiring railroad to take bond to protect subcontractors, valid. Mann v. Corrigan, 28 K. 197.
Dram-shop act does not conflict with this section. Jockers v. Borgman, 29 K. 113.
Special act excluding certain land from Wyandotte city, held unconstitutional. Gray v. Crockett, 30 K. 142.
Special act authorizing school district to issue bonds, held valid. Knowles v. Board of Education, 33 K. 692.
Special act vacating streets in different cities in state, constitutional. City of Wichita v. Burleigh, 36 K. 41.
Ch. 93, Laws of 1874, negligence of railway employees, valid. A. T. & S. F. Rld. Co. v. Koehler, *Adm'x*, 37 K. 463.
Metropolitan police act, ch. 100, Laws of 1887, held valid. The State, *ex rel.*, v. Hunter, 38 K. 578.
Fire from railroad *prima facie* evidence of negligence, held constitutional. Mo. Pac. Rly. Co. v. Merrill, 40 K. 404.
Legislature determine whether purpose can be accomplished by general act. The State, *ex rel.*, v. Sanders, 42 K. 233; Hughes v. Milligan, 42 K. 399; Comm'rs of Barber County v. Smith, 48 K. 334.
Act providing for organization of county high schools, held constitutional. Koester v. Comm'rs of Atchison County, 44 K. 143.
Ch. 102, Laws of 1879, foreign executor convey property, valid. Calloway v. Cooley, 50 K. 743.
Act creating municipal township of certain territory, held constitutional enactment. The State, *ex rel.*, v. Lewelling, 51 K. 562.
Act establishing a county high school, held valid. Eichholtz v. Martin, 53 K. 486.
Act creating city court of Kansas City, held valid. *In re* Greer, 58 K. 268.
Act creating city court of Topeka, held valid. Chesney v. McClintock, 61 K. 94.
Act fixing fees of probate judge in certain county, constitutional. Campbell v. Labette County, 63 K. 377.
Act dissolving certain school districts and attaching to another, valid. Ash v. Thorp, 65 K. 60.
Power to fix penalty for nonpayment of taxes, not limited. Railway Co. v. Miami County, 67 K. 439.
Section mandatory; whether law general or special, question for courts. Rambo v. Larrabee, 67 K. 634.
Ch. 34, Laws of 1883, validating certain ordinances, held valid. Leavenworth v. Water Co., 69 K. 82.
"Law of general nature" and "general law" distinguished. Richardson v. Board of Education, 72 K. 633.
Laws applicable to class of cities according to population, discussed. Parker-Washington Co. v. Kansas City, 73 K. 722.
Ch. 101, Laws of 1905, certain cities issue bonds, valid. Belleville v. Wells, 74 K. 823.
Ch. 366, Laws of 1901, public improvements, protest, law valid. Clarke v. Lawrence, 75 K. 27.
Legislature alone determines necessity for enacting special legislation. Hicks v. Davis, 97 K. 315.

Annotations to amended section:

Ch. 141, Laws of 1907, erection permanent county buildings, valid. The State v. Butler County, 77 K. 527.
Amendment 1906, general or special law, applicability a judicial question. Anderson v. Cloud County, 77 K. 721.
Ch. 72, Laws of 1907, bridges in Cloud county, unconstitutional. Anderson v. Cloud County, 77 K. 722.
Rule that courts must uphold act where possible, not apply. Anderson v. Cloud County, 77 K. 722.
Ch. 24, Laws of 1907, organizing union school district, unconstitutional. Gardner v. The State, 77 K. 743.
Ch. 368, Laws of 1907, special county high-school building, invalid. Deng v. County of Scott, 77 K. 863.
Ch. 179, Laws of 1907, city court of Chanute, unconstitutional. The State v. Nation, 78 K. 394.
Amendment of 1906 is not retroactive in effect. Stephens v. Labette County, 79 K. 154.
Ch. 52, Laws of 1908, circuit court of Wyandotte county, unconstitutional. The State v. Hutchings, 79 K. 191.
Ch. 250, Laws of 1907, black powder in coal mines, valid. *In re* Williams, 79 K. 214.
General or special law determined by subject matter, not form. The State v. Lawrence, 79 K. 234.
Amendment of 1906 does not apply to laws previously passed. The State v. Cox, 79 K. 530.

Ch. 114, Laws of 1907, commission government for cities, valid. Cole v. Dorr, 80 K. 251.
Ch. 183, Laws of 1907, witness fees, public officers, valid. Claflin v. Wyandotte County, 81 K. 57.
Part ch. 264, Laws of 1909, weights and measures, valid. The State v. Creamery Co., 83 K. 389.
Chs. 210 and 215, 1909, county high schools, valid enactments. The State v. Pauley, 83 K. 456.
Partial repeal of special law by special law and not prohibited. The State v. Prather, 84 K. 174.
Ch. 259, Laws of 1911, bonded indebtedness, school purposes, unconstitutional. Board of Education v. Davis, 87 K. 286.
Ch. 210, Laws of 1907, undersheriffs in certain counties, unconstitutional. Gustafson v. McPherson County, 88 K. 335.
Ch. 88, Laws of 1907, bridges in Neosho county, unconstitutional. Railway Co. v. Neosho County, 89 K. 209.
Ch. 248, Laws of 1909, inheritance tax law, held valid. The State, *ex rel.*, v. Cline, 91 K. 416.
Ch. 222, Laws of 1911, bathhouses at mines, valid. The State v. Reaser, 93 K. 629.
Cited in discussing uniform operation of freight rates throughout the state. Railroad Co. v. Utilities Commission, 95 K. 612.
Law not special because only one city of population designated. Water Co. v. Kansas City, 164 Fed. 738.
Ch. 124, Laws of 1913, waterworks cities second and third classes, valid. Hartzler v. City of Goodland, 97 K. 135.
Ch. 196, Laws of 1915, creating certain first-class city courts, unconstitutional. The State, *ex rel.*, v. Deming, 98 K. 420.
Ch. 276, Laws of 1905, amendatory ch. 132, Laws of 1885, taxation situs bonds, etc., valid Freedom Township v. Douglas, 99 K. 176.
Ch. 284, Laws of 1917, formation rural high-school districts, valid. The State, *ex rel.*, v. Lamont, 105 K. 134.
Ch. 161, Laws of 1919, county seat relocation, unconstitutional. Patrick v. Haskell County, 105 K. 153.
Ch. 271, Laws of 1915, establishment of county welfare institutions, constitutional. Beck v. Shawnee County, 105 K. 325.

§ 158. DIVORCE. § 18. All power to grant divorces is vested in the district court, subject to regulation by law.

Decree affecting property void when court fails to get jurisdiction. Wesner v. O'Brien, 1 K. A. 416.
Power of court in granting restraining order and divorce, discussed. *In re* David H. Mitchell, 1 K. 643.
Supreme court has jurisdiction when case brought up on error. Ulrich v. Ulrich, 8 K. 402.
Court granting divorce may award possession of homestead to wife. Brandon v. Brandon, 14 K. 342.
Legislature may forbid divorced persons to marry within six months. Durland v. Durland, 67 K. 734.
Implies power to divide property between parties when denying divorce. Putnam v. Putnam, 104 K. 51.

§ 159. PUBLICATION; OFFICERS. § 19. The legislature shall prescribe the time when its acts shall be in force, and shall provide for the speedy publication of the same; and no law of a general nature shall be in force until the same be published. It shall have the power to provide for the election or appointment of all officers, and the filling of all vacancies not otherwise provided for in this constitution.

Portions of act to take effect at different times, unconstitutional. Comm'rs of Montgomery County v. Glass, 4 K. A. 286.
Law of general nature has no effect unless published. The State, *ex rel.* Guthrie, v. Board of Commissioners, 4 K. 272.
Legislature has power to provide for unexpired term of sheriff. Bond v. White, 8 K. 343.
Law prescribing what shall constitute publication of laws, held valid. Turner v. Davis, 21 K. 139.
No valid election where no statutory or constitutional provision. Matthews v. Comm'rs of Shawnee County, 34 K. 607.
Where two constructions possible, one chosen that renders act valid. Comm'rs of Cherokee County v. Chew, 44 K. 164.
Legislature need not name particular day if time definitely ascertained. Comm'rs of Cherokee County v. Chew, 44 K. 164.
Publication omitting enacting clause or other essential part, no publication. *In re* Swartz, *Petitioner*, 47 K. 159.
Act must take effect as an entirety at definite time. Comm'rs of Miami County v. Hiner, 54 K. 334; Finnigan v. Sale, 54 K. 420; The State v. Deets, 54 K. 504.
Postponing certain elections to secure uniformity of official terms, valid. Wilson v. Clark, 63 K. 505; The State v. Andrews, 64 K. 474, 488.
Publication in "official state paper" equivalent to "official city paper." The State v. Topeka, 68 K. 188.

Act may take effect at later date, depending on population. The State, *ex rel.*, v. Meek, 86 K. 579.
Ch. 210, Laws 1915, election of county superintendent, unconstitutional. The State, *ex rel.*, v. Doane, 98 K. 438.
"White slave law" (Ch. 179, Laws 1913) was regularly enacted and published. The State v. Fleeman, 102 K. 673.

§ 160. ENACTING CLAUSE. § 20. The enacting clause of all laws shall be "Be it enacted by the legislature of the state of Kansas"; and no law shall be enacted except by bill.

Legislature could not create crime by resolution; enacting clause vital. *In re* Swartz, *Petitioner*, 47 K. 158.
Enrolled bill imports absolute verity unless irregularity is conclusively shown. Stephens v. Labette County, 79 K. 153.
Ch. 124, Laws 1913, has enacting clause. Valid. Hartzell v. City of Goodland, 97 K. 135.
Ch. 346, Laws 1917, is substantial compliance with mandatory enacting clause provision. Valid. The State, *ex rel.*, v. Knapp, 102 K. 705.

§ 161. COUNTY TRIBUNALS. § 21. The legislature may confer upon tribunals transacting the county business of the several counties, such powers of local legislation and administration as it shall deem expedient.

Legislature may authorize counties to grant aid to railroad companies. Leavenworth County v. Miller, 7 K. 479.
Legislature may confer legislative or administrative power on county commissioners. Noffzigger v. McAllister, 12 K. 320.
County commissioners refused to organize new township; held, no appeal. Fulkerson v. Comm'rs of Harper County, 31 K. 127.
Legislative and administrative power may be conferred on other local agencies. City of Emporia v. Smith, 42 K. 435.
County printing, courts cannot interfere with discretion of county commissioners. Comm'rs of Harper County v. The State, *ex rel.*, 47 K. 285.
Statute conferring legislative authority on road commissioners, unconstitutional and void. Comm'rs of Wyandotte County v. Abbott, 52 K. 160.
County commissioners given authority to compromise and refund county indebtedness. Riley v. Garfield Township, 58 K. 303.
Attempt to authorize change in corporate limits by petition, unconstitutional. Hutchinson v. Leimbach, 68 K. 37.
Power to levy tax conferred on park commissioners, held valid. Wulf v. Kansas City, 77 K. 365.
County commissioners compelled by mandamus to perform legal duty. School District v. Wilson County, 82 K. 806.
Rock-road law does not confer legislative powers on petitioners. Hill v. Johnson County, 82 K. 813.
Initiative and referendum, cities under commission, does not violate section. The State, *ex rel.*, v. City of Hutchinson, 93 K. 405.
Incorporation of cities of third class, action of county commissioners conclusive. The State, *ex rel.*, v. Holcomb, 95 K. 660.

§ 162. PRIVILEGES OF MEMBERS. § 22. For any speech or debate in either house, the members shall not be questioned elsewhere. No member of the legislature shall be subject to arrest—except for felony or breach of the peace—in going to, or returning from, the place of meeting, or during the continuance of the session; neither shall he be subject to the service of any civil process during the session, nor for fifteen days previous to its commencement.

Session of senate while trying impeachment is covered by section. Cook v. Senior, 3 K. A. 278.
Statute prescribing venue of actions is limited by this section. McAnarney v. Caughenaur, 34 K. 623.

§ 163. SCHOOLS. § 23. The legislature, in providing for the formation and regulation of schools, shall make no distinction between the rights of males and females.

Section does not apply to qualifications of electors for superintendent. Winans v. Williams, 5 K. 228.
Separate schools, white and colored children, not authorized by law. Board of Education v. Tinnon, 26 K. 22.

§ 164. APPROPRIATION. § 24. No money shall be drawn from the treasury, except in pursuance of a specific appropriation made by law, and no appropriation shall be for a longer term than two years.

This section was submitted by the legislature at the session of 1876 (Laws 1876, ch. 129), and was adopted by the people at the general election held November 7, 1876. Original section 24 was as follows:

"§ 24. No money shall be drawn from the treasury, except in pursuance of a specific appropriation made by law; and no appropriation shall be for a longer term than one year."

Money drawn only in pursuance of act passed within year. Martin v. Francis, 13 K. 228.
Appropriation of all proceeds of certain levies held valid appropriation. Evans v. McCarthy, 42 K. 426.
Money drawn from treasury only in pursuance of specific appropriation. Henderson v. Hovey, 46 K. 691.
No money (interest) drawn, except specific appropriation within two years. The State, *ex rel.*, v. Stover, 47 K. 119.
Specific appropriation cannot be attacked by mere volunteer. Cole v. National Bank, 56 K. 571.
See section 30 of this article [G. S. 1915, sec. 139*a*.]
State auditor can not impeach legislative discretion under this section. Hicks v. Davis, 97 K. 315.
Ch. 346, Laws 1917 (Gage's Lincoln statue) is an appropriation law, valid. State, *ex rel.*, v. Knapp, 102 K. 703.

§ 165. SESSIONS. § 25. All sessions of the legislature shall be held at the state capital, and beginning with the session of eighteen hundred and seventy-seven, all regular sessions shall be held once in two years, commencing on the second Tuesday of January of each alternate year thereafter.

This section was submitted by the legislature at the session of 1875 (Laws 1875, ch. 140), and was adopted by the people at the general election held November 2, 1875. Original section 25 was as follows:

"§ 25. All sessions of the legislature shall be held at the state capital, and all regular sessions shall commence annually on the second Tuesday of January."

§ 166. CENSUS. § 26. The legislature shall provide for taking an enumeration of the inhabitants of the state at least once in ten years. The first enumeration shall be taken in A. D. 1865.

Apportionments have been made by legislature based on the census. The State, *ex rel.*, v. Francis, 26 K. 727.

§ 167. IMPEACHMENT. § 27. The house of representatives shall have the sole power to impeach. All impeachments shall be tried by the senate; and when sitting for that purpose, the senators shall take an oath to do justice according to the law and the evidence. No person shall be convicted without the concurrence of two-thirds of the senators elected.

Senate when trying impeachment is in session as a senate. Cook v. Senior, 3 K. A. 281.
When senate shall sit and how trial conducted, considered. The State, *ex rel.*, v. Hillyer, 2 K. 17.
Judges district courts subject to impeachment and removal by legislature. Falloon v. Clark, 61 K. 125.

§ 168. SAME; PUNISHMENT. § 28. The governor and all other officers under this constitution shall be subject to impeachment for any misdemeanor in office; but judgment in all such cases shall not be extended further than to removal from office and disqualification to hold any office of profit, honor or trust under this constitution; but the party, whether acquitted or convicted, shall be liable to indictment, trial, judgment and punishment, according to law.

Legislator subject to removal only by members of same house. The State, *ex rel.*, v. Gilmore, 20 K. 551.
Judges district court subject to impeachment and removal by legislature. Falloon v. Clark, 61 K. 125.
Removal of unfaithful public officers constitutional, except where impeachment applies. The State, *ex rel.*, v. Martin, 87 K. 817.

§ 169. TERM. § 29. At the general election held in eighteen hundred and seventy-six, and thereafter, members of the house of representatives shall be elected for two years, and members of the senate shall be elected for four years.

This section is an additional section to article 2. It was submitted by the legislature at the session of 1875 (Laws 1875, ch. 140), and was adopted by the people at the general election held November 2, 1875.

[§ 169*a*.] § 30. The Legislature may levy a permanent tax for the use and benefit of the state educational institutions and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Nothing herein contained shall prevent such further appropriation by the legislature as may be deemed necessary from time to time for the needs of said state educational institutions.

This amendment (new in subject-matter, and not indicating the place it should occupy in the constitution), was submitted by the legislature at the session of 1917 (ch. 352, Laws 1917), and was adopted by the people at the general election, held November 5, 1918. It enlarges the power of the legislature in regard to appropriations, hence is placed at the end of this article 2. This section is noted at section 24 of this article; at conclusion of article 6 and following article 11.

ARTICLE 3.—JUDICIAL.

§1. Judicial power, how vested; all courts of record to have a seal.
2. Supreme court; how composed; quorum; term; first election.
3. Jurisdiction of supreme court; terms.
4. Officers of court to be appointed; terms.
5. Judicial districts; one judge in each; term; duties.
6. Jurisdiction of district courts.
7. Clerks of district court; term.
8. Probate courts; jurisdiction; to consist of one judge; elected; compensation.
9. Justices of the peace; term; powers; number.
10. Appeals to district court.
11. Election of judicial officers; vacancies, how filled.
§12. Judicial officers to hold until successors have qualified.
13. Salaries not to be increased during term; not to receive fees; not to practice law.
14. Judicial districts may be increased in number; not to vacate any office.
15. Removal of justices and judges.
16. Jurisdiction at chambers; to be regulated by law.
17. Style of process; authority for prosecution.
18. Judicial districts.
19. Counties may be attached for judicial purposes.
20. Judges *pro tempore* in certain cases.

§ 170. JUDICIAL POWER. § 1. The judicial power of this state shall be vested in a supreme court, district courts, probate courts, justices of the peace, and such other courts, inferior to the supreme court, as may be provided by law; and all courts of record shall have a seal, to be used in the authentication of all process.

Courts of appeals, quo warranto, concurrent jurisdiction with supreme court. The State, *ex rel.*, v. Kelly, 2 K. A. 179.
Courts for trial of contested elections authorized by the constitution. Steele v. Martin, 6 K. 430.
Valuation of property for taxation not judicial power for courts. Auditor of State v. A. T. & S. F. Railroad Co., 6 K. 500.
Whether judicial power may be conferred on city council, discussed. Anthony v. Halderman, 7 K. 64.
Power of supreme court to make rules governing appeals, discussed. Coleman v. Newby, 7 K. 82.
"Boards of appraisers and assessors" does not exercise judicial powers. Amrine and Russell v. K. P. R. R. Co., 7 K. 183.
Supreme court can exercise only judicial and power incident thereto. Wilson v. Price-Raid Aud. Com., 31 K. 258.
Courts provided by constitution and provided by law, two classes. Matthews v. Comm'rs of Shawnee County, 34 K. 610.
Supreme court may protect its jurisdiction, process, orders, judgments, etc. C. K. & W. Rld. Co. v. Comm'rs of Chase County, 42 K. 223.
Dissenting opinion.—Proper place and functions of judiciary discussed. *In re* Gunn, *Petitioner*, 50 K. 220.
County attorney cannot commit, for contempt, witness refusing to testify. *In re* Sims, *Petitioner*, 54 K. 1.
Notary public cannot commit, for contempt, witness refusing to testify. *In re* Huron, 58 K. 152.
Legislature had power to create circuit court of Shawnee county. Morris v. Bunyan, 58 K. 212.
Investigating committee cannot imprison witness for refusal to testify. *In re* Davis, 58 K. 374.
Authentication is mandatory; order of sale without seal is void. Gordon v. Bodwell, 59 K. 52.
Court of Topeka lawfully created under provisions of this section. Chesney v. McClintock, 61 K. 99.

Court of visitation combined legislative, executive and judicial functions, unconstitutional. The State v. Johnson, 61 K. 811.
State board of medical registration and examination not judicial tribunal. Meffert v. Medical Board, 66 K. 710.
Rule when seal omitted does not apply to clerk's signature. Aultman v. Wier, 67 K. 675.
Probate court, judicial tribunal, may commit girls to industrial school. *In re* Gassaway, 70 K. 696.
Original and appellate jurisdiction in disbarment proceedings, discussed. *In re* Burnette, 73 K. 616.
Section does not authorize creation of court by special act. The State v. Nation, 78 K. 399.
Police judge not repository of judicial power under this section. The State v. Keener, 78 K. 649.
Constitution does not prohibit more than one judge in district. The State v. Hutchings, 79 K. 191.
Notice in disbarment not process within meaning of this section. *In re* Wilson, 79 K. 452.
Conferring power on county boards to extend corporate limits, constitutional. Nash v. Glen Elder, 81 K. 446.

§ 171. SUPREME COURT. § 2. The supreme court shall consist of seven justices, who shall be chosen by the electors of the state. They may sit separately in two divisions, with full power in each division to determine the cases assigned to be heard by such division. Three justices shall constitute a quorum in each division, and the concurrence of three shall be necessary to a decision. Such cases only as may be ordered to be heard by the whole court shall be considered by all the justices, and the concurrence of four justices shall be necessary to a decision in cases so heard. The justice who is senior in continuous term of service shall be chief justice, and in case two or more have continuously served during the same period the senior in years of these shall be chief justice, and the presiding justice of each division shall be selected from the judges assigned to that division in like manner. The term of office of the justices shall be six years, except as hereinafter provided. The justices in office at the time this amendment takes effect shall hold their offices for the terms for which they were severally elected, and until their successors are elected and qualified. As soon as practicable after the second Monday in January, 1901, the governor shall appoint four justices, to hold their offices until the second Monday in January, 1903. At the general election in 1902 there shall be elected five justices, one of whom shall hold his office for two years, one for four years, and three for six years. At the general election in 1904 and every six years thereafter, two justices shall be elected. At the general election in 1906 and every six years thereafter, two justices shall be elected. At the general election in 1908 and every six years thereafter, three justices shall be elected.

This section was submitted by the legislature at the session of 1899 (L. 1899, ch. 314), and was adopted by the people at the general election held in November, 1900. Original section 2 was as follows:

"§ 2. The supreme court shall consist of one chief justice and two associate justices (a majority of whom shall constitute a quorum), who shall be elected by the electors of the state at large, and whose term of office, after the first, shall be six years. At the first election, a chief justice shall be chosen for six years, one associate justice for four years, and one for two years."

§ 172. JURISDICTION AND TERMS. § 3. The supreme court shall have original jurisdiction in proceedings in quo warranto, mandamus, and habeas corpus; and such appellate jurisdiction as may be provided by law. It shall hold one term each year at the seat of government and such other terms at such places as may be provided by law, and its jurisdiction shall be coextensive with the state.

Jurisdiction in quo warranto not exclusive; courts of appeals concurrent. The State, *ex rel.*, v. Kelly, 2 K. A. 185.
Constitutional jurisdiction not abolished when writ of quo warranto abolished. The State, *ex rel.*, v. Allen, 5 K. 213.
Jurisdiction of supreme court limited to jurisdiction specified herein. Auditor of State v. A., T. & S. F. Railroad Co., 6 K. 500.
Supreme court has appellate jurisdiction in divorce. Ulrich v. Ulrich, 8 K. 408.

Orders reviewable by supreme court under civil code, discussed. McCulloch v. Dodge, 8 K. 476.
Jurisdiction given to one court not necessarily exercised exclusively. Shoemaker v. Brown, 10 K. 391.
Supreme court has appellate jurisdiction only as provided by law. City of Leavenworth v. Weaver, 26 K. 393.
Quo warranto jurisdiction conferred; jurisdiction as understood when constitution adopted. The State, *ex rel.*, v. Wilson, 30 K. 665
Original and appellate jurisdiction defined and construed. Wilson v. Price-Raid Aud. Com., 31 K. 258.
Municipal corporation ousted from power usurped, by *quo warranto*. The State, *ex rel.*, v. City of Topeka, 31 K. 454.
Supreme court has no original jurisdiction in suits for injunction. Foster v. Moore, 32 K. 485.
Quo warranto lies, to great extent, in discretion of court. Tarbox v. Sughrue, 36 K. 225.
Supreme court in protecting jurisdiction may prohibit or restrain acts. C. K. & W. Rld. Co. v. Comm'rs of Chase County, 42 K. 224.
Dissenting opinion.—Cited, showing proper place and functions of judiciary. *In re* Gunn, *Petitioner*, 50 K. 220.
Writ of error *coram nobis*, only district court has jurisdiction. The State v. Calhoun, 50 K. 532.
Jurisdiction of supreme court upon expiration of court of appeals. Railway Co. v. Morris, 65 K. 535.
Trial *de novo* in supreme court is not appellate jurisdiction. *In re* Burnette, 73 K. 616.
Supreme court restrains acts or appoint receiver to protect jurisdiction. The State v. Brewing Association, 76 K. 188.
Supreme court has common-law jurisdiction in *quo warranto*. The State v. Brewing Association, 76 K. 189.
Election contest triable by senate; supreme court jurisdiction only concurrent. Yeager v. Aikman, 80 K. 663.
Quo warranto dismissed, plaintiff had pursued remedy in contest court. Little v. Davis, 80 K. 781.
Whether action named *quo warranto* or *mandamus* of little consequence. Fee v. Richardson, 82 K. 191.
Dissenting opinion.—What constitutes plain and adequate remedy at law. Capper v. Stotler, 88 K. 405.
Mandamus may be exercised to control action of inferior courts. Bishop v. Fischer, 94 K. 108.
Legislature determines appellate jurisdiction of supreme court under this section. State v. Coletti, 102 K. 526.

§ 173. REPORTER AND CLERK. § 4. There shall be appointed, by the justices of the supreme court, a reporter and clerk of said court, who shall hold their offices two years, and whose duties shall be prescribed by law.

§ 174. DISTRICT JUDGES. § 5. The state shall be divided into five judicial districts, in each of which there shall be elected, by the voters thereof, a district judge, who shall hold his office for the term of four years. District courts shall be held at such times and places as may be provided by law.

Term of district judges may not be extended by legislature. The State, *ex rel.* Goodin, v. Thoman, 10 K. 197.
Removal from state with intention to remain absent creates vacancy. Bawden v. Stewart, 14 K. 355.
Case of The State, *ex rel.* Goodin, v. Thoman, *supra*, followed. Peters v. Board of State Canvassers, 17 K. 365.
Attaching one county to another for judicial purposes, considered. The State v. Ruth, 21 K. 583.
Court in only one place in district at a time. *In re* Millington, *Petitioner*, 24 K. 224.
District may be changed although it terminate office of judge. Aikman v. Edwards, 55 K. 754.
Appointment of judges by governor for exceptional term, held valid. The State v. Andrews, 64 K. 474.
More than one judge to a judicial district not prohibited. The State v. Hutchings, 79 K. 199.
Appointee of governor hold office only until next regular election. The State v. Holcomb, 83 K. 259.
Judges elected at regular election hold office for four years. The State, *ex rel.*, v. Holcomb, 87 K. 511.

§ 175. JURISDICTION. § 6. The district court shall have such jurisdiction in their respective districts as may be provided by law.

Judicial functions exercised by others than judge of district court. Young v. Ledrick, 14 K. 92.
Exclusive jurisdiction of certain matters conferred on justice of peace. Evans and Nelson v. Adams, 21 K. 122.

Courts of record have inherent power to punish for contempt. *In re* Millington, *Petitioner*, 24 K. 221.
Original and appellate jurisdiction not limited as supreme court. Wilson v. Price-Raid Aud. Com., 31 K. 259.
Creation of courts with concurrent jurisdiction in certain cases, constitutional. A. T. & S. F. Rld. Co. v. Rice, 36 K. 593; Morris v. Bunyan, 58 K. 212.
Jurisdiction general except matters withheld or ceded to another tribunal. Manley v. Park, 62 K. 557.
Extent of jurisdiction is left to legislature. The State v. Jack, 69 K. 392.
Jurisdiction of district courts in civil matters confined to district. *In re* Jewett, 69 K. 836.
Naturalization, jurisdiction of district court restricted to county where sitting. United States v. Johnson, 181 Fed. 429.

§ 176. CLERK. § 7. There shall be elected in each organized county a clerk of the district court, who shall hold his office two years, and whose duties shall be prescribed by law.

Section apparently contemplates that every organized county have district court. The State, *ex rel.*, v. Osborn, *Judge*, 36 K. 533.

§ 177. PROBATE COURT; JUDGE PRO TEM. § 8. There shall be a probate court in each county, which shall be a court of record, and have such probate jurisdiction and care of estates of deceased persons, minors, and persons of unsound minds, as may be prescribed by law, and shall have jurisdiction in cases of habeas corpus. The court shall consist of one judge, who shall be elected by the qualified voters of the county, and hold his office two years. He shall hold court at such times and receive for compensation such fees or salary as may be prescribed by law. The legislature may provide for the appointment or selection of a probate judge *pro tem.* when the probate judge is unavoidably absent or otherwise unable or disqualified to sit in any case.

This section was submitted by the legislature at the session of 1905 (L. 1905, ch. 544), and was adopted by the people at the election held in November, 1906. Original section 8 was as follows:

"§ 8. There shall be a probate court in each county, which shall be a court of record, and have such probate jurisdiction and care of estates of deceased persons, minors, and persons of unsound minds, as may be prescribed by law; and shall have jurisdiction in cases of habeas corpus. This court shall consist of one judge, who shall be elected by the qualified voters of the county, and hold his office two years. He shall be his own clerk, and shall hold court at such times and receive for compensation such fees as may be prescribed by law."

Probate courts have complete jurisdiction of settlement of estates. Shoemaker v. Brown, 10 K. 393.
Powers given probate judge in sale of school lands, valid. *In re* Johnson, 12 K. 103.
Powers of probate courts only those specifically conferred by statute. Carr v. Catlin, 13 K. 404.
Probate judge may receive judicial powers other than granted herein. Young v. Ledrick, 14 K. 92.
Probate judge has no court officers; his own presence sufficient. Brubaker v. Jones, 23 K. 415.
Legislature may confer other powers than herein specified. (Druggist's permit.) Intoxicating Liquor Cases, 25 K. 758.
Proceedings of probate court within jurisdiction presumed to be regular. Houbert v. Heyle, 47 K. 65.
Legislature may provide additional duties and additional compensation for same. Comm'rs of Miami Co. v. Collins, 47 K. 419.
Case of Houbert v. Heyle, *supra*, followed. Higgins v. Reed, 48 K. 280.
Jurisdiction of district court, actions against foreign executors, not unconstitutional. Manley v. Park, 62 K. 555-7.
Probate judge not necessarily entitled to all fees he collects. Campbell v. Labette County, 63 K. 379.
Court cannot order ward's money applied on judgment against guardian. Harter v. Miller, 67 K. 469.
Legislature empowered probate court to commit girls to industrial school. *In re* Gassaway, 70 K. 695.
Probate court has full authority over the estate of insane person. Foran v. Healy, 73 K. 642.
Probate court has inherent power to punish summarily for contempt. *In re* Hanson, 80 K. 784.
Probate court cannot determine title to conclude persons claiming adversely. Byerly v. Eadie, 95 K. 403.
Qualifiedly, probate court may approve partition by insane person's guardian. Bennett v. Arrowsmith, 101 K. 144.

§ 178. JUSTICES OF THE PEACE. § 9. Two justices of the peace shall be elected in each township, whose term of office shall be two years, and whose powers and duties shall be prescribed by law. The number of justices of the peace may be increased in any township by law.

Justice of peace, jurisdiction in connection with prohibitory law, discussed. The State v. Allphin, 2 K. A. 33.
Justice of the peace holds office until successor is qualified. Borton v. Buck, 8 K. 307.
Election of justice of the peace for unexpired term, considered. Odell v. Dodge, 16 K. 446.
Justices of the peace given exclusive jurisdiction in certain cases. Evans and Nelson v. Adams, 21 K. 119.
Justice of the peace must hold trial within his township. Phillips v. Thralls, 26 K. 781.
Proceedings of justice of peace outside his township are void. A. T. & S. F. Rld. Co. v. Rice, 36 K. 597.
Jurisdiction of justice of peace in cities, coextensive with county. The State, *ex rel.*, v. Parry, 52 K. 7.
Jurisdiction of justice of peace may be materially restricted. *In re* Greer, 58 K. 268.
Jurisdiction purely statutory, will not be extended beyond express terms. Sims v. Kennedy, 67 K. 385.

§ 179. APPEALS. § 10. All appeals from probate courts and justices of the peace shall be to the district court.

Meaning of "appeals" as used herein, construed and defined. Crane v. Giles, 3 K. 54.
No appeal from justice of the peace to supreme court. The State v. Harpster, 15 K. 322.

§ 180. ELECTION OF JUDICIAL OFFICERS. § 11. All the judicial officers provided for by this article shall be elected at the first election under this constitution, and shall reside in their respective townships, counties or districts during their respective terms of office. In case of vacancy in any judicial office, it shall be filled by appointment of the governor until the next regular election that shall occur more than thirty days after such vacancy shall have happened.

"Regular election" means next election held conformable to established law. The State *ex rel.*, v. Cobb, 2 K. 49.
Failure to elect justice of peace does not vacate office. Borton v. Buck, 8 K. 302.
When fixed term expires election held to elect successor, valid. The State, *ex rel.*, v. Thoman, 10 K. 191.
Vacancy when township divided and justice thrown into new township. Frazer v. Miller, 12 K. 459.
Vacancy is created where district judge removes permanently from state. Bawden v. Stewart, 14 K. 364.
Time district judges elected and term for which elected, considered. Peters v. Board of State Canvassers, 17 K. 365; Smith v. Holt, 24 K. 771.
Resignation accepted upon condition, office not vacant until condition fulfilled. The State, *ex rel.*, v. Clayton, 27 K. 443.
Election for judge held when no election provided for, invalid. Matthews v. Comm'rs of Shawnee County, 34 K. 606.
Justice of peace elected at regular city election in cities. Ward v. Clark, 35 K. 315.
Justice of peace cannot entertain criminal complaint outside his township. A. T. & S. F. Rld. Co. v. Rice, 36 K. 596.
Qualification of successor terminates right of incumbent to hold over. The State, *ex rel.*, v. Albert, 55 K. 158.
Special terms filled by appointment in readjusting terms, held valid. Wilson v. Clark, 63 K. 505; The State v. Andrews, 64 K. 488.
"Regular election" means election for filling that class of offices. McIntyre v. Iliff, 64 K. 747.
Appointee holds until election for filling that class of offices. The State v. Holcomb, 83 K. 258.
"Regular election" in any district makes election "regular" in all. Wendorff v. Dill, 83 K. 782.
Judge elected at "next regular election" elected for regular term quoted. The State v. Holcomb, 87 K. 512.

§ 181. TERMS. § 12. All judicial officers shall hold their offices until their successors shall have qualified.

Justice of peace holds office until his successor is qualified. Borton v. Buck, 8 K. 302.
Justice succeeding himself, failing to qualify, remains justice *de jure*. Rheinhart v. State, 14 K. 318.
Resignation incomplete until successor qualified when so specified in acceptance. The State, *ex rel.*, v. Clayton, 27 K. 443.
Qualification of successor terminates right of incumbent to hold over. The State, *ex rel.*, v. Albert, 55 K. 158.
The terms "elected and qualified" and "qualified," discussed and distinguished. The State v. Andrews, 64 K. 495.
Elections postponed, means of filling offices not provided, incumbents hold over. Pruitt v. Squires, 64 K. 861.

§ 182. COMPENSATION OF JUDGES. § 13. The justices of the supreme court and judges of the district court shall, at stated times, receive for their services such compensation as may be provided by law, which shall not be increased during their respective terms of office: *Provided,* Such compensation shall not be less than fifteen hundred dollars to each justice or judge, each year, and such justices or judges shall receive no fees or perquisites nor hold any other office of profit or trust under the authority of the state, or the United States, during the term of office for which such justices and judges shall be elected, nor practice law in any of the courts in the state during their continuance in office.

Provision concerning not holding other office, considered and applied. The State, *ex rel.*, v. Cobb, 2 K. 27.
Where official term fixed, election to fill next term valid. The State, *ex rel.* Goodin, v. Thoman, 10 K. 194.
Except in these cases, legislature may increase or diminish salaries. Harvey, *Treas.*, v. Comm'rs of Rush County, 32 K. 162.
Acting as district court and magistrate independent of court, considered. The State v. Forbriger, 34 K. 7.
Judge violating this section held to be *de facto* judge. Railway Co. v. Preston, 63 K. 822.
During his term judge performs all duties without increased compensation. Moore v. Nation, 80 K. 687.

§ 183. JUDICIAL DISTRICTS. § 14. Provision may be made by law for the increase of the number of judicial districts whenever two-thirds of the members of each house shall concur. Such districts shall be formed of compact territory and bounded by county lines, and such increase shall not vacate the office of any judge.

Attaching unorganized territory to judicial district for judicial purposes, valid. *In re* Holcomb, *Petitioner*, 21 K. 633.
Legislative journals consulted to determine whether two-thirds of members concurred. *In re* Vanderberg, *Petitioner*, 28 K. 253.
Legislature may abolish district by transferring counties, during judge's term. Aikman v. Edwards, 55 K. 751.
"Two-thirds" concurrence required by this section, considered. Railway Co. v. Simons, 75 K. 130.
County not divided, but may have more than one judge. The State v. Hutchings, 79 K. 199.

§ 184. REMOVAL OF JUDGES. § 15. Justices of the supreme court and judges of the district courts may be removed from office by resolution of both houses, if two-thirds of the members of each house concur. But no such removal shall be made except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice and opportunity to be heard.

District judge removable only by impeachment or method herein provided. Falloon v. Clark, 61 K. 121.

§ 185. JURISDICTION AT CHAMBERS. § 16. The several justices and judges of the courts of record in this state shall have such jurisdiction at chambers as may be provided by law.

Injunction granted and charge for violation thereof heard at chambers. The State v. Cutler, 13 K. 134.
Punishment for contempt; powers granted to "court" and "judge" distinguished. *In re* Millington, *Petitioner*, 24 K. 221.
Charge of violating writ of mandamus improperly heard at chambers. The State, *ex rel.*, v. Stevens, 40 K. 113; *In re* Price, *Petitioner*, 40 K. 156.
Attachment against person of judgment debtor properly issued at chambers. *In re* Heath, *Petitioner*, 40 K. 337.
Journal entry improperly amended at chambers to defeat "former jeopardy." The State v. Start, 62 K. 114.
Legislature may properly provide for investigation before judge at chambers. The State v. Jack, 69 K. 392.
Judge has no jurisdiction in habeas corpus outside his district. *In re* Jewett, 69 K. 836.

§ 186. PROCESS. § 17. The style of all process shall be "The State of Kansas," and all prosecutions shall be carried on in the name of the state.

Writ of mandamus must issue in name of the state. The State, *ex rel.*, v. Comm'rs of Jefferson County, 11 K. 71.

Addition of the county after the state does not invalidate. Truitt v. Baird, 12 K. 422.
Violation of city ordinances prosecuted in name of the city. City of Emporia v. Volmer, 12 K. 628.
"Process" as herein prescribed does not apply to disbarment proceedings. *In re* Wilson, 79 K. 452.
Notice to obtain service by publication is not "process." McKenna v. Cooper, 79 K. 847.

§ 187. DISTRICTS. § 18. Until otherwise provided by law, the first district shall consist of the counties of Wyandotte, Leavenworth, Jefferson and Jackson. The second district shall consist of the counties of Atchison, Doniphan, Brown, Nemaha, Marshall and Washington. The third district shall consist of the counties of Pottawatomie, Riley, Clay, Dickinson, Davis, Wabaunsee and Shawnee. The fourth district shall consist of the counties of Douglas, Johnson, Lykins, Franklin, Anderson, Linn, Bourbon and Allen. The fifth district shall consist of the counties of Osage, Coffey, Woodson, Greenwood, Madison, Breckenridge, Morris, Chase, Butler and Hunter.

§ 188. UNORGANIZED COUNTIES. § 19. New or unorganized counties shall, by law, be attached for judicial purposes, to the most convenient judicial district.

Whether organized county may be attached to convenient district, considered. The State v. Ruth, 21 K. 588.
Legislature may attach undivided territory to adjoining judicial district. *In re* Holcomb, *Petitioner*, 21 K. 634.
When county organized before trial defendant should be tried there. The State v. Bunker, 38 K. 741.
Placing organized county in district carries with it attached territory. *In re* Schurman, *Petitioner*, 40 K. 533.

§ 189. JUDGE PRO TEM. § 20. Provision shall be made by law for the selection, by the bar, of a *pro tem.* judge of the district court, when the judge is absent or otherwise unable or disqualified to sit in any case.

Judge *pro tem.* ordered instead of change of venue, error. Kansas Pac. Rly. Co. v. Reynolds, 8 K. 628.
Defendant entitled to judge *pro tem.* when regular judge is prejudiced. Peyton's Appeal, 12 K. 408.
Objection to judge *pro tem.* must be raised at trial. Higby v. Ayres, 14 K. 338.
Power of judge *pro tem.* to adjourn court, considered. The State v. Palmer, 40 K. 478.
Judge *pro tem.* from another district held *de facto* judge. Railway Co. v. Preston, 63 K. 819.
Judge *pro tem.* may be selected by agreement of parties. Chandler v. Chandler, 92 K. 357.

ARTICLE 4.—ELECTIONS.

§1. Elections by people, by ballot; by legislature, *viva voce*.
2. Elections: county and township officers.
3. Public officers subject to recall; remedy not deemed exclusive.
§4. Petition for recall; signing petition; proceedings; proclamation of election; reasons for recall.
5. Recall ballot; canvassing returns; vacancy exist, to be filled as provided by law.

§ 190. ELECTIONS. § 1. All elections by the people shall be by ballot, and all elections by the legislature shall be *viva voce*.

Vote "by ballot," defined and considered. Taylor v. Bleakley, 55 K. 1.

§ 191. ELECTIONS; COUNTY AND TOWNSHIP OFFICERS. § 2. General elections and township elections shall be held biennially on the Tuesday succeeding the first Monday in November, in the years bearing even numbers. All county and township officers shall hold their offices for a term of two years and until their successors are qualified: *Provided*, One county commissioner shall be elected from each of three districts, numbered 1, 2, and 3, by the voters of the district, and the legislature shall fix the time of election and the term of office of such commissioners; such election to be at a general election, and no term of office to exceed six years. All officers whose successors would, under the law as it existed at the time of their election, be elected in an odd-numbered year, shall hold office for an addi-

tional year and until their successors are qualified. No person shall hold the office of sheriff or county treasurer for more than two consecutive terms.

This section was submitted by the legislature at the session of 1901 (L. 1901, ch. 424), and was adopted by the people at the election held in November, 1902. See 69 K. 192. The original section was as follows:

"§ 2. General elections shall be held annually on the Tuesday succeeding the first Monday in November. Township elections shall be held on the first Tuesday in April, until otherwise provided by law."

"Regular" and "general" elections, defined and distinguished. The State, *ex rel.*, v. Cobb, 2 K. 54; Bond v. White, 8 K. 341.

Election held to fill office when term fixed, held valid. The State, *ex rel.* Goodin, v. Thoman, 10 K. 195.

November election is "general election" regardless of number elected. Morgan v. Comm'rs of Pratt County, 24 K. 73.

Changing time of electing legislators does not change "general election." The State, *ex rel.*, v. Mechem, 31 K. 438.

"General election" has a fixed and uniform meaning. The State, *ex rel.*, v. Foster, 36 K. 506.

Postponement of elections to secure uniformity does not conflict herewith. Wilson v. Clark, 63 K. 505.

"All officers" (amendment, 1902) means all county and township officers. Griffith v. Manning, 67 K. 560; Fischer v. Moore, 69 K. 191.

§ 192. RECALL OF PUBLIC OFFICERS; PROVISIONS NOT EXCLUSIVE. § 3. Every public officer holding either by election or appointment is subject to recall from office by a majority of the electors of the state or lesser electoral division for which elected or appointed, voting on the subject at any general or special election, but the provisions hereof shall not be deemed exclusive of other remedies for removal from office.

See note following section 5 hereof.

§ 193. PETITION FOR ELECTION; PROCLAMATION OF ELECTION; ELECTION; REASONS FOR RECALL. § 4. An election for recall shall be upon petitions signed by at least ten (10%) per cent of the electors of the state, qualified to sign, for the recall of any state officer; by fifteen (15%) per cent of the electors for the recall of an officer elected by a district less than a state and greater than a county; or, for an officer who was appointed by him; and by twenty-five (25%) per cent of the electors qualified to sign, for the recall of an officer elected in a county, district or municipality within the county, or an officer who was appointed by any such officer elected. Any petition for recall shall certify that the signers thereto are citizens of the United States of America and voted for the officer to be recalled, if elected; or, for the officer who appointed him if appointed, at the last preceding election at which such officer was elected. The petition shall be filed with the authority for calling elections in the state or other electoral division, at least ninety days before the date of election, and the election held thereon shall be called within thirty days after filing petition, and be proclaimed at least sixty days before the date of holding. The petition and proclamation of election shall state in not more than two hundred words the reasons for the recall.

See note following section 5 hereof.

§ 194. RECALL BALLOT; CANVASSING RETURNS; VACANCY IN OFFICE. § 5. The recall ballot shall be, Shall the named officer holding the named office be recalled, and the provisions of law for holding, canvassing and certifying returns of general elections shall apply to recall elections, and if the vote be in favor of the recall a vacancy in the office shall exist, to be filled as authorized by law.

The foregoing three sections (sections 3, 4 and 5 hereof) are additional sections to article 4. They were submitted by the legislature at the session of 1913 (L. 1913, ch. 336), and were adopted by the people at the general election held November 3, 1914.

ARTICLE 5.—SUFFRAGE.

§1. Qualification of electors.
2. Classes excluded.
3. Who not gain or lose right.
4. Proofs as to those entitled to vote.
5. Dueling to disqualify from holding office.
§6. Bribery at elections.
7. Privilege of electors from arrest.
8. Right to vote or hold office not abridged on account of sex.

§ 195. QUALIFICATIONS OF ELECTOR. § 1. Every citizen of the United States of the age of twenty-one years and upwards—who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he or she offers to vote at least thirty days next preceding such election—shall be deemed a qualified elector. [Ch. 353; Laws 1917.]

This section was submitted by the legislature at the session of 1917, and was adopted by the people at the election held November 5, 1918. Original section 1 was as follows:

"SEC. 1. Every [white] [male] person of twenty-one years and upwards belonging to either of the following classes—who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he offers to vote at least thirty days next preceding such election—shall be deemed a qualified elector. 1st, citizens of the United States; 2d, persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization."

Annotations to original section:

The word "white," inclosed in brackets where it occurs in this section, became obsolete on account of the provisions of the fifteenth amendment to the constitution of the United States.

The word "male," inclosed in brackets where it occurs in this section, became obsolete on account of the provisions of the amendment to the constitution of the state of Kansas which is section 8 of this article.

Residence not gained while in state in employ of United States. Hunt v. Richards *et al.*, 4 K. 549.

Persons not disqualified simply because soldiers or officers of army. Hunt v. Richards *et al.*, 4 K. 554.

Person must be resident of ward at least thirty days. Anthony v. Halderman, 7 K. 62.

Women having foregoing qualifications may vote for school-district treasurer. Wheeler v. Brady, 15 K. 26.

Elector must vote in township or ward where he resides. The State, *ex rel.*, v. Stock, 38 K. 180.

Member of soldier's home not deprived from gaining residence there. Cory v. Spencer, 67 K. 651.

State officer may abandon former residence and gain new residence. Uhls v. Allard, 69 K. 827.

Suffrage not abridged by statute. Only by amending constitution. The State, *ex rel.*, v. Doane, 98 K. 439.

Annotations to new section:

Regardless of intention, only citizens United States may vote. The State, *ex rel.*, v. Covell, 103 K. 754.

§ 196. WHO EXCLUDED. § 2. No person under guardianship, *non compos mentis*, or insane; no person convicted of felony, unless restored to civil rights; no person who has been dishonorably discharged from the service of the United States, unless reinstated; no person guilty of defrauding the government of the United States, or any of the states thereof; no person guilty of giving or receiving a bribe, or offering to give or receive a bribe; and no person who has ever voluntarily borne arms against the government of the United States, or, in any manner voluntarily aided or abetted in the attempted overthrow of said government, except all persons who have been honorably discharged from the military service of the United States since the first day of April, A. D. 1861, provided that they have served one year or more therein, shall be qualified to vote or hold office in this state, until such disability shall be removed by a law passed by a vote of two-thirds of all the members of both branches of the legislature.

This section was submitted by the legislature at the session of 1867 (Senate Journal 1867, p. 550), and was adopted by the people at the election held November 5, 1867. Original section 2 was as follows:

"§ 2. No person under guardianship, *non compos mentis* or insane shall be quali-

fied to vote; nor any person convicted of treason or felony, unless restored to civil rights."

Involuntary service in rebel army does not render candidate ineligible. Privett v. Stevens, 25 K. 275.

Eligible if disqualification removed after election but before taking office. Privett v. Bickford, 26 K. 52.

Section valid under section 10, article 1, United States constitution. Boyd v. Mills, 53 K. 594.

§ 197. WHO NOT GAIN OR LOSE RIGHT. § 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas, nor while a student of any seminary of learning, nor while kept at any almshouse or other asylum at public expense, nor while confined in any public prison; and the legislature may make provision for taking the votes of electors who may be absent from their townships or wards, in the volunteer military service of the United States, or the militia service of this state; but nothing herein contained shall be deemed to allow any soldier, seaman or marine in the regular army or navy of the United States the right to vote.

This section was submitted by the legislature at the session of 1864 (Laws 1864, ch. 45), and was adopted by the people at the general election held November 8, 1864. Original section 3 was as follows:

"§ 3. No soldier, seaman or marine in the army or navy of the United States or of their allies, shall be deemed to have acquired a residence in the state in consequence of being stationed within the same; nor shall any soldier, seaman or marine have the right to vote."

Soldier not disqualified, but presence in state as such not residence. Hunt v. Richards *et al.*, 4 K. 549.

Inmates of soldiers' home acquire no residence. (See following case.) Lawrence v. Leidigh, 58 K. 594.

Inmate of soldiers' home may gain residence where home located. Cory v. Spencer, 67 K. 648.

§ 198. PROOF OF RIGHT. § 4. The legislature shall pass such laws as may be necessary for ascertaining by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established.

Majority of votes cast presumed will of majority of electors. County Seat of Linn County, 15 K. 500.

Registration law of 1879 enacted in pursuance hereof, and valid. The State v. Butts, 31 K. 550.

§ 199. DUELISTS. § 5. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or shall go out of the state to fight a duel, shall be ineligible to any office of trust or profit.

§ 200. BRIBERY. § 6. Every person who shall have given or offered a bribe to procure his election shall be disqualified from holding office during the term for which he may have been elected.

§ 201. ELECTORS PRIVILEGED. § 7. Electors, during their attendance at elections, in going to and returning therefrom, shall be privileged from arrest in all cases except treason, felony, or breach of the peace.

§ 202. EQUAL SUFFRAGE. § 8. The rights of citizens of the state of Kansas to vote and hold office shall not be denied or abridged on account of sex.

The foregoing section is an additional section to article 5. It was submitted by the legislature at the session of 1911 (L. 1911, ch. 337), and was adopted by the people at the general election held November 5, 1912.

ARTICLE 6.—EDUCATION.

§1. State and county superintendent; term.
2. School system.
3. Proceeds of certain public lands; other sources of school fund.
4. Distribution of school fund annually; no state funds unless three months' school.
5. School lands, when sold; revaluation once in five years; leased, when.
§6. Sundry moneys applied to school purposes.
7. State university; normal schools; university fund.
8. No religious sect to have control of school or university funds.
9. Board of commissioners to have management of school fund.

§ 203. STATE AND COUNTY SUPERINTENDENT. § 1. The state superintendent of public instruction shall have the general supervision of the common-school funds and educational interests of the state, and perform such other duties as may be prescribed by law. A superintendent of public instruction shall be elected in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law.

Women cannot vote for either state or county superintendent. Winans v. Williams, 5 K. 227.
Woman may vote for school-district treasurer in this state. Wheeler v. Brady, 15 K. 27.
Women are eligible to office of county superintendent. Wright v. Noell, 16 K. 601.
County superintendent chosen by voters of entire county. The State, *ex rel.*, v. Doane, 98 K. 438.
Duties of county superintendent are imposed by the legislature. Bunning v. Shawnee County, 104 K. 480.

§ 204. SCHOOLS. § 2. The legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of common schools, and schools of a higher grade, embracing normal, preparatory, collegiate and university departments.

County high school comes within "schools of a higher grade." Koester v. Comm'rs of Atchison County, 44 K. 142.
Board of education, city first class, may maintain high school. Board of Education v. Welch, 51 K. 804.
Law creating high school in just one county, held valid. Eichholtz v. Martin, 53 K. 489.
Legislature may require county to establish and maintain high school. The State v. Freeman, 61 K. 90.
Separate schools, white and colored children, cities first class, constitutional. Reynolds v. Board of Education, 66 K. 672.
Securing uniformity of text-books is exercise of sovereign power. The State v. Book Co., 69 K. 22.
Repeating Lord's Prayer and Twenty-third Psalm in schools, considered. Billard v. Board of Education, 69 K. 57.
High school of city part of "common schools," tuition unlawful. Board of Education v. Dick, 70 K. 434.
Legislature may compel city to issue bonds aiding state university. The State v. Lawrence, 79 K. 234.
Legislature may provide for establishing high schools in certain townships. Reese v. Hammond, 94 K. 459.

§ 205. PROCEEDS OF SCHOOL FUND. § 3. The proceeds of all lands that have been or may be granted by the United States to the state for the support of schools, and the five hundred thousand acres of land granted to the new states under an act of congress distributing the proceeds of public lands among the several states of the union, approved September 4, A. D. 1841, and all estates of persons dying without heir or will, and such per cent as may be granted by congress, on the sale of lands in this state, shall be the common property of the state, and shall be a perpetual school fund, which shall not be diminished, but the interest of which, together with all the rents of the lands, and such other means as the legislature may provide, by tax or otherwise, shall be inviolably appropriated to the support of common schools.

One-mill tax abolished by chapter 149, Laws of 1879. The State, *ex rel.*, v. Ewing, 22 K. 708.
Policy of state to comply with letter and spirit hereof. Roberts v. M. K. & T. Rly. Co., 43 K. 112.
Doubtful whether school lands may be appropriated for other purpose. The State, *ex rel.*, v. Humphrey, 47 K. 563.

This section does not authorize tuition in city high school. Board of Education v. Dick, 70 K. 440.
Legislature not prevented from relieving city of university bonds voted. The State v. Lawrence, 79 K. 263.
If islands were appropriated for schools they must remain so. Winters v. Myers, 92 K. 419.

§ 206. INCOME OF SCHOOL FUND. § 4. The income of the state school funds shall be disbursed annually, by order of the state superintendent, to the several county treasurers, and thence to the treasurers of the several school districts, in equitable proportion to the number of children and youth resident therein, between the ages of five and twenty-one years: *Provided*, That no school district in which a common school has not been maintained at least three months in each year shall be entitled to receive any portion of such funds.

§ 207. DISPOSAL OF LANDS. § 5. The school lands shall not be sold unless such sale shall be authorized by a vote of the people at a general election; but, subject to revaluation every five years, they may be leased for any number of years not exceeding twenty-five, at a rate established by law.

Power of legislature in dealing with school lands, discussed. Roberts v. M. K. & T. Rly. Co., 43 K. 112.
Lease of school lands subject to revaluation every five years. Payne v. Barlow, 84 K. 132.

§ 208. MONEY APPLIED TO SCHOOLS. § 6. All money which shall be paid by persons as an equivalent for exemption from military duty; the clear proceeds of estrays, ownership of which shall vest in the taker-up; and the proceeds of fines for any breach of the penal laws, shall be exclusively applied in the several counties in which the money is paid or fines collected, to the support of common schools.

"Fines" must go to common schools; act providing otherwise, void. A. T. & S. F. Rld. Co. v. The State, 22 K. 14
Bond in supreme court forfeited, proceeds to county where forfeited. The State v. June, 63 K. 8.
This section discussed in determining constitutionality of an act. Hardy v. Kingman County, 65 K. 111.
Act providing payment of part of penalty to informer, unconstitutional. Harrod v. Latham, 77 K. 469.
"Fine" by supreme court, proceeds to county where liability incurred. The State v. Rose, 78 K. 600.
This section applied to denial of remedy on illegal contract. Manker v. Tough, 79 K. 53.
Damages to aggrieved person provided by oil transportation act, constitutional. Tucker v. Railway Co., 82 K. 224.
Payment ordered for support of wife cannot be considered "fine." The State v. Gillmore, 88 K. 839.
Contempt fine, even in civil case, goes to common schools. Holloway v. Water Co., 100 K. 414.
Ch. 16, Laws 1917 (employing county prisoners on roads) constitutional. The State, *ex rel.*, v. Chase County, 101 K. 564.
Sec. 3856, G. S. 1915, not penal. Changes rule of descent only. Hamblin v. Marchant, 103 K. 508.
Same statute above disinheriting spouse for killing consort-spouse, not forfeiture. Hamblin v. Marchant, 103 K. 693.

§ 209. STATE UNIVERSITY. § 7. Provision shall be made by law for the establishment at some eligible and central point, of a state university, for the promotion of literature, and the arts and sciences, including a normal and an agricultural department. All funds arising from the sale or rents of lands granted by the United States to the state for the support of a state university, and all other grants, donations or bequests, either by the state or by individuals, for such purpose, shall remain a perpetual fund, to be called the "university fund;" the interest of which shall be appropriated to the support of the state university.

Regents cannot collect library fee when not prescribed by law. The State, *ex rel.*, v. Regents of the University, 55 K. 396.
Section discussed with relation to university bonds issued by city. The State v. Lawrence, 79 K. 234.

§ 210. NONSECTARIAN. § 8. No religious sect or sects shall ever control any part of the common-school or university funds of the state.

Repeating Lord's Prayer or Twenty-third Psalm in schools not prohibited. Billard v. Board of Education, 69 K. 56.

§ 211. INVESTMENT OF FUNDS. § 9. The state superintendent of public instruction, secretary of state and attorney-general shall constitute a board of commissioners for the management and investment of the school funds. Any two of said commissioners shall be a quorum.

Control of investment of school funds by the legislature, discussed. The State v. Lawrence, 79 K. 264.

NOTE.—See new section 30, article 2. [G. S. 1915, sec. 169*a*.]

ARTICLE 7.—PUBLIC INSTITUTIONS.

§1. Benevolent institutions to be supported by state; trustees, how appointed.
2. Penitentiary directors, how elected.
§3. Vacancies in office, how filled.
4. Support of aged and infirm by counties.

§ 212. BENEVOLENT INSTITUTIONS. § 1. Institutions for the benefit of the insane, blind, and deaf and dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the state, subject to such regulations as may be prescribed by law. Trustees of such benevolent institutions as may be hereafter created, shall be appointed by the governor, by and with the advice and consent of the senate; and upon all nominations made by the governor, the question shall be taken in yeas and nays, and entered upon the journal.

Estate of person committed to insane asylum liable for maintenance. Kaiser v. The State, 80 K. 364.

State supervision of charitable institutions unnecessary to exempt from taxation. Masonic Home v. Sedgwick County, 81 K. 683.

Not contemplated that charities shall be directly administered by state. Ingleside v. Nation, 83 K. 175.

§ 213. PENITENTIARY. § 2. A penitentiary shall be established, the directors of which shall be appointed or elected, as prescribed by law.

Meaning of term "penitentiary" as used in our laws, discussed. Millar v. The State, 2 K. 178.

"Confinement and hard labor" held to mean confinement in penitentiary. The State v. Nolan, 48 K. 729.

§ 214. VACANCIES IN OFFICE. § 3. The governor shall fill any vacancy that may occur in the offices aforesaid, until the next session of the legislature, and until a successor to his appointee shall be confirmed and qualified.

§ 215. AGED AND INFIRM. § 4. The respective counties of the state shall provide, as may be prescribed by law, for those inhabitants, who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society.

Question of relief of "poor" at public expense, discussed. State v. Township of Osawkee, 14 K. 422.

Overseer of poor may bind county for relief of needy. Dykes v. Stafford County, 86 K. 698.

Granting relief to certain disabled residents, held to be discretionary. Gleason v. Sedgwick County, 92 K. 632.

ARTICLE 8.—MILITIA.

§1. How composed; persons who may be exempted.
2. Militia to be organized and disciplined.
§3. Election of militia officers.
4. Governor commander-in-chief; power to call out militia.

§ 216. HOW COMPOSED; EXEMPTION. § 1. The militia shall be composed of all able-bodied male citizens between the ages of twenty-one and forty-five years, except such as are exempted by the laws of the United States or of this state; but all citizens of any religious denomination what-

ever who from scruples of conscience may be averse to bearing arms shall be exempted therefrom, upon such conditions as may be prescribed by law.

Adopted in 1888. The original section had the word "white" before "male" in second line.

Legislature may not prohibit bearing arms by lawful military organization. Salina v. Blaksley, 72 K. 230.

§ 217. ORGANIZATION. § 2. The legislature shall provide for organizing, equipping and disciplining the militia in such manner as it shall deem expedient, not incompatible with the laws of the United States.

§ 218. OFFICERS. § 3. Officers of the militia shall be elected or appointed, and commissioned in such manner as may be provided by law.

§ 219. COMMANDER. § 4. The governor shall be commander-in-chief, and shall have power to call out the militia to execute the laws, to suppress insurrection, and to repel invasion.

Governor, as commander-in-chief, may muster out company of national guard. Lewis v. Lewelling, 53 K. 204.

ARTICLE 9.—COUNTY AND TOWNSHIP ORGANIZATION.

§1. Organization of new counties; county lines; county seats; change of county seat; least area of new county.
2. County and township officers.
§3. Repealed.
4. Repealed.
5. Removal of county and township officers.

§ 220. COUNTIES, ETC. § 1. The legislature shall provide for organizing new counties, locating county seats, and changing county lines; but no county seat shall be changed without the consent of a majority of the electors of the county; nor any county organized, nor the lines of any county changed, so as to include an area of less than four hundred and thirty-two square miles.

Legislative recognition of validity of county organization renders same valid. The State, *ex rel.*, v. Comm'rs of Pawnee County, 12 K. 439.

Legislature may abolish counties, and county seats must go with them. Division of Howard County, 15 K. 195.

Legislature may provide that majority of votes cast shall determine. County-Seat of Linn County, 15 K. 527.

After constitutional consent, legislature make change or submit to vote. County-Seat of Osage County, 16 K. 296.

Limitation as to area applies to organized and unorganized counties. The State, *ex rel.*, v. St. John, 21 K. 599.

After legislative recognition, election held as of unorganized county, nullity. The State, *ex rel.*, v. Comm'rs of Harper County, 34 K. 302.

After electors select county seat, law may require retention of same. The State, *ex rel.*, v. Sanders, 42 K. 234.

County seat remains located until changed under provisions of law. The State, *ex rel.*, v. Comm'rs of Atchison County, 44 K. 186.

Election which legislature could have provided for may be validated. The State, *ex rel.*, v. Burton, 47 K. 48.

Validity of county organization hereunder may not be attacked collaterally. *In re* Short, *Petitioner*, 47 K. 253.

De facto organization of county, until act declared unconstitutional, discussed. Riley v. Garfield Township, 58 K. 300.

Officer *de facto* cannot recover compensation for services performed. Garfield Township v. Crocker, 63 K. 273.

§ 221. COUNTY AND TOWNSHIP OFFICERS. § 2. The legislature shall provide for such county and township officers as may be necessary.

County commissioners are county officers and hold office two years. Leavenworth County v. The State, 5 K. 688.

When township divided, justice remains justice where he resides. Borton v. Buck, 8 K. 302.

Number or kind of township officers not defined by constitution. Borton v. Buck, 8 K. 308.

Legislature may provide less than usual number of county officers. The State, *ex rel.*, v. Comm'rs of Pawnee County, 12 K. 439.

County commissioners appointed by the governor may settle commissioner districts. Keating v. Marble, 39 K. 370.

County superintendent not within this provision, elsewhere created by constitution. The State, *ex rel.*, v. Doane, 98 K. 438.

§ 222. This section eliminated by the adoption of § 2, art. 4, in 1904. The section as amended in 1876 was as follows:

"§ 3. All county officers shall hold their offices for the term of two years, and until their successors shall be qualified, except county commissioners, who shall hold their offices for the term of three years: *Provided*, That at the general election in the year eighteen hundred and seventy-seven the commissioner elected from district number one in each county shall hold his office for the term of one year, the commissioner elected from district number two in each county shall hold his office for the term of two years, and the commissioner elected from district number three in each county shall hold his office for the term of three years; but no person shall hold the office of sheriff or county treasurer for more than two consecutive terms."

The original section 3 was as follows:

"§ 3. All county officers shall hold their offices for the term of two years, and until their successors shall be qualified; but no person shall hold the office of sheriff or county treasurer for more than two consecutive terms."

Annotations to original section:

County commissioners are county officers and hold office two years. Leavenworth County v. The State, 5 K. 688.

Section has no bearing upon the question of a vacancy. Bond v. White, 8 K. 333.

Section applies only to regular term, not vacancies or exceptions. Hagerty v. Arnold, 13 K. 382.

Appointee holds office only until next regular election. State v. Conn, 14 K. 218.

Annotations to section as amended in 1876:

Terms not "consecutive terms" when period of time intervenes. Horton v. Watson, 23 K. 229

County commissioners, chairman holds office from election until January following. Fuller v. Miller, 32 K. 133.

Temporary commissioners have power to divide county into commissioner districts. Keating v. Marble, 39 K. 370.

Phrase, "more than two consecutive terms," discussed and defined. Davis v. Patten, 41 K. 482.

Officers elected at first election hold until next regular election. Killion v. Herman, 43 K. 39.

Officer at end of second term holds until successor qualified. Pruitt v. Squires, 64 K. 855.

§ 223. This section eliminated by the adoption of § 2, art. 4, in 1904. The original section was as follows:

"§ 4. Township officers, except justices of the peace, shall hold their offices one year from the Monday next succeeding their election, and until their successors are qualified."

Justice chosen at first election holds for unexpired term only. Odell v. Dodge, 16 K. 446.

Justice, township officer, cannot entertain criminal complaint outside his township. A. T. & S. F. Rld. Co. v. Rice, 36 K. 596.

"Court of Topeka" not township office within meaning of section. Chesney v. McClintock, 61 K. 99.

§ 224. REMOVAL. § 5. All county and township officers may be removed from office in such manner and for such cause as shall be prescribed by law.

Removal of treasurer by county commissioners, discussed and held valid. The State, *ex rel.*, v. Majors, 16 K. 444.

ARTICLE 10.—APPORTIONMENT.

§1. Each county to have at least one representative; districts.
§2. Basis of representation; the census once every five years.
3. Apportionment in the two houses.

§ 225. DISTRICTS. § 1. In the future apportionment of the state, each organized county shall have at least one representative; and each county shall be divided into as many districts as it has representatives.

Law required to create district and consent of both houses. Prouty v. Stover, *Lieut. Governor*, 11 K. 235.

§ 226. APPORTIONMENT. § 2. It shall be the duty of the first legislature to make an apportionment, based upon the census ordered by the last legislative assembly of the territory; and a new apportionment shall be made in the year 1866, and every five years thereafter, based upon the census of the preceding year.

§ 227. THE SAME. § 3. Until there shall be a new apportionment, the state shall be divided into election districts; and the representatives and senators shall be apportioned among the several districts as follows, viz.:

1st district, Doniphan, 4 representatives, 2 senators.

2d district, Atchison and Brown, 6 representatives, 2 senators.

3d district, Nemaha, Marshall and Washington, 2 representatives, 1 senator.

4th district, Clay, Riley and Pottawatomie, 4 representatives, 1 senator.

5th district, Dickinson, Davis and Wabaunsee, 3 representatives, 1 senator.

6th district, Shawnee, Jackson and Jefferson, 8 representatives, 2 senators.

7th district, Leavenworth, 9 representatives, 3 senators.

8th district, Douglas, Johnson and Wyandotte, 13 representatives, 4 senators.

9th district, Lykins, Linn and Bourbon, 9 representatives, 3 senators.

10th district, Allen, Anderson and Franklin, 6 representatives, 2 senators.

11th district, Woodson and Madison, 2 representatives, 1 senator.

12th district, Coffey, Osage and Breckenridge, 6 representatives, 2 senators.

13th district, Morris, Chase and Butler, 2 representatives, 1 senator.

14th district, Arrapahoe, Godfrey, Greenwood, Hunter, Wilson, Dorn and McGee, 1 representative.

ARTICLE 11.—FINANCE AND TAXATION.

§1. Assessment and taxation to be uniform; property exempted.
2. Taxing of notes, bills, etc., of banks and bankers.
3. Revenues to pay current expenses of state.
4. Tax to be levied by law; object to be stated; applied to no other purpose.
§5. State debt limited; laws creating debt, how passed.
6. To be submitted to direct vote of people.
7. State may borrow money to repel invasion, etc.: money thus raised to be applied exclusively to its object.
8. State not to carry on internal improvements.

§ 228. TAXATION; EXEMPTION. § 1. The legislature shall provide for a uniform and equal rate of assessment and taxation; but all property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, and personal property to the amount of at least two hundred dollars for each family, shall be exempted from taxation.

Assessment on property benefited by guttering and paving is "tax." Todd v. Atchison, 9 K. A. 251.

Injunction granted where property unlawfully taxed more than its proportion. Railway Co. v. Geary County, 9 K. A. 350.

Penalty upheld where injunction against collection of taxes is dissolved. Railway Co. v. Labette County, 9 K. A. 545.

Valuation of personal property for all purposes must be uniform. Stanfield v. Boyd, 10 K. A. 265.

Statute taxing certain counties because of delinquent taxes, void. The State, *ex rel.*, v. Leavenworth County, 2 K. 57.

Levying cost of improvements on lots according to area, valid. Hines v. City of Leavenworth, 3 K. 186.

Assessment of railroad by board of county clerks, held valid. Gulf Railroad Co. v. Morris, 7 K. 220.

Land owned by educational institution, but unoccupied, not exempt. Washburn College v. County of Shawnee, 8 K. 344.

Dwelling owned by church, used exclusively as residence, not exempt. Vail v. Beach, 10 K. 214.

Use for "educational purposes" must be direct, immediate and exclusive. St. Mary's College v. Crowl, *Treas.*, 10 K. 449.

Agricultural college lands held under contracts of purchase are taxable. Oswalt v. Halloweil, 15 K. 156.

Both statute and city ordinance taxing foreign insurance company, valid. City of Leavenworth v. Booth, 15 K. 627.

Law apportioning indebtedness when county divided does not conflict herewith. Comm'rs of Sedgwick County v. Bunker, 16 K. 504.
"Uniform and equal rate of assessment and taxation," construed. Comm'rs of Ottawa County v. Nelson, 19 K. 234.
Uniform assessment and taxation herein contrasted with other state constitutions. Francis, *Treas.*, v. A. T. & S. F. Rld. Co., 19 K. 303.
All persons owning property on assessment roll, although property exempt. The State, *ex rel.*, v. Comm'rs of Phillips County, 26 K. 423.
Corporation tax depending on tax imposed by other states, valid. Phœnix Ins. Co. v. Welch, *Supt.*, 29 K. 672.
Property conveyed to county, used exclusively for county purposes, exempt. Durkee v. Comm'rs of Greenwood County, 29 K. 697.
Special assessments for improvements, not taxes within meaning of section. Tull v. Royston, 30 K. 619.
Section refers to property tax, does not prohibit license tax. City of Newton v. Atchison, 31 K. 151.
Tax on cattle driven into state after March 1, void. Graham v. Comm'rs of Chautauqua County, 31 K. 477.
Taxation on railroad property only, to pay railroad commissioners, unconstitutional. A. T. & S. F. Rld. Co. v. Howe, *Treas.*, 32 K. 737.
Ordinance regulating, restricting and taxing dogs, not in conflict herewith. The State, *ex rel.*, v. City of Topeka, 36 K. 76.
Stenographer's fee is not a tax within the meaning hereof. W. B. Beebe v. Wells, 37 K. 472.
Statute permitting exemption of property of nonresidents of township, void. M. & M. Rly. Co. v. Champlin, *Treas.*, 37 K. 682.
Unplatted land lying within city is subject to city taxation. Mendenhall v. Burton, 42 K. 570.
Uniform and equal rate required merely in each taxing district. Elevator Co. v. Stewart, 50 K. 383.
Indian lands after first payment are subject to state tax. Logan v. Comm'rs of Clark County, 51 K. 753.
When exemption claimed, person must bring himself clearly within exemption. Stahl v. Educational Assoc'n, 54 K. 542.
Assessment, some property full value, other three-fourths less, excess illegal. C. B. & Q. Rld. Co. v. Comm'rs of Atchison County, 54 K. 781.
Property taxed for fire tax but excluded from benefit, unconstitutional. Railway Co. v. Clark, 60 K. 826.
Tax on insurance contracts with unlicensed companies, unconstitutional. *In re* Page, 60 K. 842.
Equalization fixed by state board compulsory only for state taxes. Geary County v. Railway Co., 62 K. 168.
Property used by mutual benefit insurance association, not exempt. National Council v. Shawnee County, 63 K. 799.
Waterworks owned by city, although charging prescribed rentals, is exempt. Sumner County v. Wellington, 66 K. 590.
"Uniform and equal" does not apply to penalty for nonpayment. Railway Co. v. Miami County, 67 K. 434.
Compromise act, authorizing compromise of taxes on unsold property, valid. Trust Co. v. Davis, 76 K. 639.
Authorizing city to issue bonds aiding university, not in conflict herewith. The State v. Lawrence, 79 K. 234.
Act making estates liable for maintenance at state hospital, valid. Kaiser v. The State, 80 K. 364.
Only property used exclusively, directly and immediately in dispensing charity, exempt. Mason v. Zimmerman, 81 K. 799.
Exemption based solely upon exclusive use; charitable purposes discussed. Masonic Home v. Sedgwick County, 81 K. 859.
Taxation of stock owned by resident in foreign corporation, valid. Hunt v. Allen County, 82 K. 824.
Collection of excess enjoined where unlawful, intentional discrimination in valuation. Bank v. Lyon County, 83 K. 376.
Property in Kansas belonging to foreign municipality, subject to taxation. The State v. Holcomb, 85 K. 178.
Where property exempt hereunder, legislature cannot limit amount of property. Ottawa University v. Stratton, 85 K. 246.
Collection of expenses in eradicating San José scale, held valid. Balch v. Glenn, 85 K. 735.
Legislature may exempt residents in certain cities from poll tax. Shane v. City of Hutchinson, 88 K. 188.
Inheritance tax law of 1909 did not conflict herewith. The State, *ex rel.*, v. Cline, 91 K. 416.
School property not exempt from special assessments for public improvements. City of Wichita v. Board of Education, 92 K. 967.
Registration fees for real-estate mortgages (ch. 250, 1915), held unconstitutional. Wheeler v. Weightman, 96 K. 50.
"Assessment" means valuation of property by proper officers, for taxation. Western Union Telegraph Co. v. Howe, 180 Fed. 52.
Ch. 200, Laws of 1913 (inspection fee imposed for revenue purposes), invalid. The State, *ex rel.* v. Cumiskey, 97 K. 343.

Ch. 177, Laws of 1915, does not violate this section. The State, *ex rel.*, v. Reno County, 98 K. 649.
Secs. 10774 *et seq.*, G. S. 1915 (inspection moving-picture films), valid. The State, *ex rel.*, v. Ross, 101 K. 377.
Ch. 168, Laws of 1917 (employing prisoners, making allowance), valid. The State, *ex rel.*, v. Chase County, 101 K. 564.
Ch. 271, Laws 1915 (benevolent expenditure county revenues for persons not paupers), constitutional. Beck v. Shawnee County, 105 K. 325.

§ 229. NOTES, BILLS, ETC. § 2. The legislature shall provide for taxing the notes and bills discounted or purchased, moneys loaned, and other property, effects, or dues of every description (without deduction), of all banks now existing, or hereafter to be created, and of all bankers; so that all property employed in banking shall always bear a burden of taxation equal to that imposed upon the property of individuals.

Banker pays taxes on average deposits used in his business. Knox v. Comm'rs of Shawnee County, 20 K. 596.
Powers and duties of legislature under this section commented on. Dutton v. National Bank, 53 K. 454.
Discrimination in valuation intentionally made against bank, collecting excess enjoined. Bank v. Lyon County, 83 K. 376.
Section discussed in connection with registration fees for real-estate mortgages. Wheeler v. Weightman, 96 K. 69.

§ 230. REVENUE. § 3. The legislature shall provide, at each regular session, for raising sufficient revenue to defray the current expenses of the state for two years.

This section was submitted by the legislature at the session of 1875 (Laws 1875, ch. 140), and was adopted by the people at the general election held November 2, 1875. Original section 3 was as follows:

"§ 3. The legislature shall provide, each year, for raising revenue sufficient to defray the current expenses of the state."

Section is directory. Issuance of bonds for legislative expenses, unconstitutional. The State, *ex rel.* Guthrie, v. Board of Commissioners, 4 K. 261.
Section makes legislative duty, presumption lies that duty is done. The State, *ex rel.*, v. Ewing, 22 K. 714.
Legislature limited to two years; levy requiring gross sum discussed. The State, *ex rel.*, v. Bailey, 56 K. 81.

§ 231. OBJECT OF TAX. § 4. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same; to which object only such tax shall be applied.

Judgment against city, mandamus to compel levy of tax, discussed. Stevens v. Miller, 3 K. A. 192.
Act February 26, 1863, object of tax not stated, void. The State, *ex rel.*, v. Leavenworth County, 2 K. 56.
Section does not apply to license taxes in cities. City of Leavenworth v. Booth, 15 K. 634.
Levy must be based on law stating object of tax. A. T. & S. F. Rld. Co. v. Woodcock, *Treasurer*, 18 K. 20.
Act attempting to divert general tax to railroad bonds, void. National Bank v. Barber, *Treas.*, 24 K. 534.
Statute authorizing license taxes partly valid under this section. McGrath v. City of Newton, 29 K. 369.
Act prescribing payment by county to encourage agriculture, held valid. Fair Association v. Myers, 44 K. 132.
City funds deposited in bank designated by mayor and council. National Bank v. Ferguson, 48 K. 732.
Section applies to city taxes levied under legislative authority. The State v. City of Emporia, 57 K. 710.
Taxes for city building cannot be diverted to other use. The State v. City of Emporia, 57 K. 710.
How penalties and interest on delinquent taxes shall be distributed. Sedgwick County v. Wichita, 62 K. 704.
Authorizing use of general fund in erection of courthouse, unconstitutional. Smith v. Haney, 73 K. 506.
Act appropriating surplus funds to erection of county buildings, valid. The State v. Butler County, 77 K. 527.
Acts validating elections under Barnes high-school law, held valid. The State v. Pauley, 83 K. 456.
Statute charging rebates to county fund and crediting penalties, valid. Kansas City v. Stewart, 90 K. 846.
Township levy for "other purposes" applied to judgment for damages. Super v. Modell Township, 94 K. 402.

"Reserve fund" under commission government, simply authorization to set apart. Railway Co. v. City of Topeka, 95 K. 747.
Ch. 200, Laws 1913 (oil inspection fees imposed for revenue purposes), invalid. The State, *ex rel.*, v. Cumiskey, 97 K. 343.
Secs. 10274 *et seq.*, G. S. 1915 (inspection fees moving-picture films), valid. The State, *ex rel.*, v. Ross, 101 K. 377.

§ 232. DEBTS; ANNUAL TAX; PROCEEDS. § 5. For the purpose of defraying extraordinary expenses and making public improvements, the state may contract public debts; but such debts shall never, in the aggregate, exceed one million dollars, except as hereinafter provided. Every such debt shall be authorized by law for some purpose specified therein, and the vote of a majority of all the members elected to each house, to be taken by the yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal thereof, when it shall become due; and shall specifically appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed nor the taxes postponed or diminished, until the interest and principal of such debt shall have been wholly paid.

Legislative and current expenses are not "extraordinary expenses." The State, *ex rel.* Guthrie, v. Board of Commissioners, 4 K. 269.
Bond issue, bought by school funds, is "creation of debt." The State, *ex rel.* Guthrie, v. Board of Commissioners, 4 K. 270.
Unpaid warrant is not a "debt" within meaning of section. The State, *ex rel.* Guthrie, v. Board of Commissioners, 4 K. 271.

§ 233. OTHER DEBTS. § 6. No debt shall be contracted by the state except as herein provided, unless the proposed law for creating such debt shall first be submitted to a direct vote of the electors of the state at some general election; and if such proposed law shall be ratified by a majority of all the votes cast at such general election, then it shall be the duty of the legislature next after such election to enact such law and create such debt, subject to all the provisions and restrictions provided in the preceding section of this article.

Debt within meaning of the constitution, discussed. The State, *ex rel.* Guthrie, v. Board of Commissioners, 4 K. 261.
Bond issue for legislative and current expenses, held unconstitutional. The State, *ex rel.* Guthrie, v. Board of Commissioners, 4 K. 272.

§ 234. BORROW MONEY. § 7. The state may borrow money to repel invasion, suppress insurrection, or defend the state in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or to the repayment of the debt thereby created.

Section referred to, showing the general financial system of state. The State, *ex rel.* Guthrie, v. Board of Commissioners, 4 K. 272.

§ 235. INTERNAL IMPROVEMENTS. § 8. The state shall never be a party in carrying on any works of internal improvements.

Section applies to state in sovereign capacity, not to counties. Leavenworth County v. Miller, 7 K. 479.
Statutes authorizing counties to issue bonds aiding railroads, held constitutional. Leavenworth County v. Miller, 7 K. 479; The State, *ex rel.*, v. Nemaha County, 7 K. 542; Morris v. Morris County, 7 K. 576.
Construction, operation, etc., of oil refinery is "work of internal improvements." The State v. Kelly, 71 K. 811.
Ch. 478, 1905, appropriates money for "works of internal improvement." The State v. Kelly, 71 K. 811.
Ch. 286, 1907, authorizing bonds aiding railroads, not repugnant hereto. Railroad Co. v. Nation, 82 K. 345.
Ch. 20, Laws of 1917 (aiding in constructing public roads), unconstitutional. The State, *ex rel.*, v. Knapp, 99 K. 852.

See new section 30, art. 2 [G. S. 1915, sec. 169*a*].

ARTICLE 12.—CORPORATIONS.

§1. No special acts conferring corporate power; general laws; amendment or repeal.
2. Individual liability of stockholders.
3. Religious corporations, how title vested.
§4. Right of way; payment, how made or secured.
5. Organization of cities and towns.
6. Term "corporation" defined; may sue and be sued.

§ 236. CORPORATE POWERS. § 1. The legislature shall pass no special act conferring corporate powers. Corporations may be created under general laws; but all such laws may be amended or repealed.

General act changing corporate limits when certain conditions exist, valid. Town Co. v. City of Smith Center, 6 K. A. 252.
Ferry franchise granted by territorial legislature is contract legislature cannot impair. The Territory v. Reyburn, 1 K. (Dassler's Ed.), 552.
This article merely regulates exercise of general legislative power conferred. Hines v. The City of Leavenworth, 3 K. 186.
This article restricts power conferred by article 2, section 1. The City of Atchison *et al.* v. Bartholow *et al.*, 4 K. 104.
This section applies to municipal as well as other corporations. City of Wyandotte v. Wood, 5 K. 607.
Special act attempting to extend corporate limits of city, unconstitutional. City of Wyandotte v. Wood, 5 K. 607.
Corporation has no legal existence outside the state where created. Land Grant Railway v. Comm'rs of Coffey County, 6 K. 245.
Act permitting single city to aid manufacturing enterprise, held invalid. National Bank v. City of Iola, 9 K. 689.
Act authorizing single city to macadamize, assess costs, etc., invalid. Gilmore v. Norton, 10 K. 491.
School district is only quasi corporation; this article not applicable. Beach v. Leahy, *Treasurer*, 11 K. 23.
Corporation lawfully organized to build bridge across Missouri river. Hunt v. K. & M. Bridge Company, 11 K. 412.
This article has no application to counties as counties. The State, *ex rel.*, v. Comm'rs of Pawnee County, 12 K. 439
Special act incorporating four cities of the second class, unconstitutional. City of Council Grove, 20 K. 619.
Corporations organized under special territorial acts cannot be continued indefinitely. The State, *ex rel.*, v. Lawrence Bridge Co., 22 K. 438.
Kansas Medical Society, corporation for all time, unless act repealed. The State, *ex rel.*, v. Stormont, 24 K. 686.
Consolidation of railroad companies does not release township from subscription. Atchison, C. & P. R. Co. v. County of Phillips, 25 K. 261.
Special act excluding property from corporate limits of city, void. Gray v. Crockett, 30 K. 138.
Act conferring corporate powers, applies to only three cities, void. City of Topeka v. Gillett, 32 K. 431.
Corporate powers or rights obtained since constitution, subject to modification. The State v. Mo. Pac. Rly. Co., 33 K. 189.
Special act conferring corporate powers on school district, not prohibited. Knowles v. Board of Education, 33 K. 699.
Grant of franchise to corporation by city, strictly construed. City of Wyandotte v. Corrigan, 35 K. 21.
General law may change or abrogate provisions of corporate charter. Endowment and Benevolent Association v. The State, 35 K. 263.
Act curing irregularities, applying only to cities first class, valid. Mason v. Spencer, *County Clerk*, 35 K. 518.
Metropolitan police act (ch. 100, 1887), not a special act. The State, *ex rel.*, v. Hunter, 38 K. 589.
City taxes levied on land annexed under special act, void. Ritchie v. Mulvane, 39 K. 241.
Curative act applying to taxes in all cities, held constitutional. Newman v. City of Emporia, 41 K. 583.
Legislature may provide when probate court may declare towns incorporated. Mendenhall v. Burton, 42 K. 573.
Special act incorporating Chetopa as city of second class, unconstitutional. Brown v. Milliken, 42 K. 769.
Acts extending corporate rights of two specified railroads, held void. Roberts v. M. K. & T. Rly. Co., 43 K. 111.
Curative statute applying to cities of first class, held valid. Manley v. Emlen, 46 K. 664.
Special act authorizing county commissioners to build a bridge, void. Comm'rs of Shawnee County v. The State, *ex rel.*, 49 K. 486.
Act permitting consolidation of cities, valid, although application limited. The State, *ex rel.*, v. Kansas City, 50 K. 516.
Section does not apply to legislation relative to state university. The State, *ex rel.*, v. Regents of the University, 55 K. 396.
Act authorizing county commissioners to build bridge within city, valid. The State, *ex rel.*, v. Shawnee County, 57 K. 269.

Act conferring corporate powers applying to Kansas City alone, void. The State v. Downs, 60 K. 788.
Right to alter and amend corporate charters, when applicable, discussed. The State v. Haun, 61 K. 146.
Corporations take franchise under reserved legislative power to alter laws. Leavenworth v. Water Co., 62 K. 648.
One legislature cannot bind another relative to corporate charters. Irrigation Co. v. Klein, 63 K. 493.
Change in law concerning savings banks, does not contravene section. West v. Bank, 66 K. 536.
Validating ordinances that would be valid under new law, constitutional. Leavenworth v. Water Co., 69 K. 82.
Special act withdrawing tract of land from a city, unconstitutional. Levitt v. Wilson, 72 K. 160.
General statute authorizing special acts changing boundaries of cities, void. Davenport v. Ham, 72 K. 179.
Law applicable to cities of certain population not special law. Parker-Washington Co. v. Kansas City, 73 K. 722.
This and section 5 only restraints on regulating municipal government. The State v. Keener, 78 K. 651.
"Special act conferring corporate powers," discussed and applied. The State v. Lawrence, 79 K. 234.
Act empowering cities to adopt commission plan of government, valid. Cole v. Dorr, 80 K. 251.
Elections void from failure of notice, validating by curative act. Cole v. Dorr, 80 K. 251.
Act authorizing county commissioners to maintain bridges in cities, valid. The State v. Franklin County, 84 K. 404.
Curative acts are not within general rule regarding special legislation. Pollock v. Kansas City, 87 K. 213.
Act validating incorporation of cities incorporated in 1913, special, void. The State, *ex rel.*, v. Holcomb, 95 K. 660.
General law applicable to only one city, held constitutional. Metropolitan Water Co. v. Kansas City, 164 Fed. 738.
Section discussed in connection with bank guaranty law. Larabee v. Dolley, 175 Fed. 389. (Ruling of this case on constitutionality of bank guaranty law reversed by Assaria State Bank v. Dolley, 219 U. S. 121. Law upheld.)
City, when created, accepts liability to future legislative regulation. Water Co. v. City of Wichita, 98 K. 259.
Ch. 151, Laws 1889, construed to prohibit garnishment against second-class city. Haddock v. McDonald, 98 K. 629.
The "City Manager Plan" act in harmony with this section. The State, *ex rel.*, v. Wichita, 100 K. 401.
Ch. 64, Laws 1870 (Enterprise dam), not special, nor confers corporate powers. The State, *ex rel.*, v. Flour Mills Co., 100 K. 469.
Statute—merger of fraternal beneficiary societies not violative of this section. Albach v. Fraternal Aid Union, 100 K. 515.
Ch. 121, Laws 1913 (city bonds, waterworks), valid. The State, *ex rel.*, v. City of Lawrence, 101 K. 227.

§ 237. LIABILITY OF STOCKHOLDERS. § 2. Dues from corporations shall be secured by the individual liability of the stockholders to the amount of stock owned by each stockholder, and such other means as shall be provided by law; but such individual liability shall not apply to railroad corporations nor corporations for religious or charitable purposes.

The foregoing section was submitted by the legislature at the session of 1905 (L. 1905 ch. 542), and was adopted by the people at the general election held in November, 1906. Original section 2 was as follows:

"§ 2. Dues from corporations shall be secured by individual liability of the stockholders to an additional amount equal to the stock owned by each stockholder, and such other means as shall be provided by law; but such individual liabilities shall not apply to railroad corporations, nor corporations for religious or charitable purposes."

Execution against corporation returned unsatisfied, creditors may proceed against stockholders. Buist v. Savings Bank, 4 K. A. 700.
Time when stockholder becomes liable for debts of corporation, discussed. Merrill v. Meade, 6 K. A. 620.
Bank, with its property, and each stockholder, liable for debts. Savings Bank v. Wulfekuhler, 19 K. 65.
Liability of stockholder is in the nature of a guaranty. Howell v. Manglesdorf, 33 K. 196.
Corporation not servant or agent of corporation holding its stock. A. T. & S. F. Rld. Co. v. Davis, 34 K. 210.
Valid judgment against corporation conclusive in enforcing stockholder's individual liability. Ball v. Reese, 58 K. 614.
This section not self-executing, but requires legislative action. Woodworth v. Bowles, 61 K. 569.
Liability of stockholders contractual, but in nature of security. Elevator Co. v. Whitbeck, 63 K. 103.
Contribution among stockholders where part guarantee and pay corporation notes. Hinshaw v. Austin, 64 K. 460.

Ch. 10, Laws of 1908, only remedy for enforcing liability. Henley v. Stevenson, 67 K. 4.
Double liability and remedies of judgment debtor, discussed. Henley v. Myers, 76 K. 723.
Stockholder's liability increased, diminished or withdrawn at will of legislature. Rowland v. Creamery Co., 79 K. 134.
Where no statute, stockholder's liability ended when stock paid up. Bicknell v. Altman, 81 K. 436.
Creditor entitled to remedies existing under law when action accrued. Douglass v. Loftus, *Adm'x*, 85 K. 720.
Transfer on books of bank necessary to relieve stockholder's liability. Bank v. Strachan, 89 K. 577.
This section self-executing; common-law remedy enforced only after execution. Harrison v. Remington Paper Co., 140 Fed. 385.
Applicability of section where charter disclaims liability, discussed. Illinois Life Ins. Co. v. Tully, 174 Fed. 360.
Constitution and statutes in force, part of contract with corporation. Schwartz v. Loftus, 216 Fed. 322.
Applies only indebtedness incurred in legitimate business of corporation. Ward v. Joslin, 186 U. S. 142.
State may change procedure for enforcement of stockholder's liability. Henly v. Myers, 215 U. S. 373.

§ 238. RELIGIOUS CORPORATIONS. § 3. The title to all property of religious corporations shall vest in trustees, whose election shall be by the members of such corporations.

Trustees personally liable on unauthorized covenant of warranty in conveyance. Klopp v. Moore, 6 K. 27.
Vesting of title on consolidating churches and changing trustees. Venable v. Ebenezer Baptist Church, 25 K. 177.

§ 239. RIGHT-OF-WAY. § 4. No right-of-way shall be appropriated to the use of any corporation until full compensation therefor be first made in money, or secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation.

Proceedings essentially proceedings *in rem*, proper notice binds all parties. K. & C. P. Rly. Co. v. Phipps, 4 K. A. 252.
Where proceedings regular, owner estopped by failure to appeal. C. K. & W. Rld. Co. v. Selders, 4 K. A. 497.
Value considered immediately before and after location of road. Missouri River, F. S. & G. R. Co. v. Owen, 8 K. 409.
Land must be paid for irrespective of any benefits accruing. Saint Joseph & D. C. R. Co. v. Orr, 8 K. 419.
Holding statutes authorizing condemnation for railroad not in conflict herewith. Hunt v. Smith, 9 K. 137.
Giving landowner new remedy does not take away former rights. A. T. & S. F. Rld. Co. v. Weaver, 10 K. 344.
Taking of private property for use of highway, discussed. Comm'rs of Shawnee County v. Beckwith, 10 K. 603.
No right to land until money paid or deposit made. St. Joseph & D. C. R. Co. v. Callender, 13 K. 496.
Money deposited with county treasurer, at company's risk pending proceedings. Blackshire v. Atchison, T. & S. R. R. Co., 13 K. 514.
Title acquired in "right-of-way" depends on statute under which acquired. Challiss v. A. T. & S. F. Rld. Co., 16 K. 117.
Disregarding "benefit" does not apply to taking for public use. Comm'rs of Pottawatomie County v. O'Sullivan, 17 K. 58
Compensation included value of property taken, also all loss sustained. Reisner v. Union Depot & Rld. Co., 27 K. 388.
Legislature may make commissioners' award final as to either party. C. B. U. P. Rld. Co. v. A. T. & S. F. Rld. Co., 28 K. 453.
Discussion of what benefits could be set off, if any. C. B. U. P. Rld. Co. v. Andrews, 30 K. 596.
Condemnation proceedings waived and suit brought for value of land. Cohen v. St. L., Ft. S. & W. Rld. Co., 34 K. 158.
City cannot grant right-of-way over private property or proposed street. W. & W. Rld. Co. v. Feehheimer, 36 K. 45.
Loss sustained to use of land with other land allowed. Comm'rs of Smith County v. Labore, 37 K. 480.
Damages never less than actual value; improper testimony, discussed. W. & W. Rld. Co. v. Kuhn, 38 K. 677.
Section does not apply where land not actually taken. O. O. C. & C. G. Rld. Co. v. Larson, 40 K. 301.
Discussion of different elements of damage to be taken into consideration. L. & W. Rld. Co. v. Ross, 40 K. 598.
Section applies only to canals, railroads, and other similar cases. Callen v. Junction City, 43 K. 630.
Railroad company must make full compensation regardless of benefits accruing. C. K. & W. Rld. Co. v. Woodward, 47 K. 193.

Company taking title by eminent domain protected against secret equities. Phipps v. Railway Co., 58 K. 142.
Where land taken for public use, compensation not condition precedent. Buckwalter v. School District, 65 K. 603.
Telephone line held not an additional servitude on highway. McCann v. Telephone Co., 69 K. 210.
Injury to adjacent property from smoke and cinders not recoverable. Railway Co. v. Armstrong, 71 K. 366.
Disregarding benefits may be harsh, but courts bound by constitution. Hall v. Electric Railroad Co., 89 K. 72.
Mere consequential damage does not amount to taking within section. Murphy v. Fairmount Township, 89 K. 767.
Benefits not disregarded where additional grounds taken for shops, etc. Smith v. Railway Co., 90 K. 757.
Compensation not condition precedent in constructing sewer; section not applicable. Railway Co. v. City of Hiawatha, 95 K. 471.
Payment of judgment condition precedent to passing of title. Zimmerman v. Kansas City Northwestern R. Co., 144 Fed. 622.

§ 240. CITIES. § 5. Provision shall be made by general law for the organization of cities, towns and villages; and their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, shall be so restricted as to prevent the abuse of such power.

Law providing street improvement must contain restrictions to prevent abuses. Hines v. City of Leavenworth, 3 K. 186.
Section regulates general grant of power; laws must be general. City of Atchison v. Bartholow, 4 K. 124.
Where word "taxes" used, "assessments or special taxes" not included. Paine v. Spratley, 5 K. 546.
Special act attempting to extend corporate limits cannot authorize taxes. City of Wyandotte v. Wood, 5 K. 603.
Statutes authorizing cities to issue bonds aiding railroads, held valid. The State, *ex rel.*, v. Nemaha County, 7 K. 542.
Does not authorize cities to contract debts for internal improvements. Leavenworth County v. Miller, 7 K. 497.
Act authorizing city to levy tax aiding private enterprise, void. National Bank v. City of Iola, 9 K. 689.
Law authorizing relevy in case of insufficient levy, held valid. City of Emporia v. Norton, 13 K. 570.
Ordinance prescribing license taxes, discussed, held not wholly void. McGrath v. City of Newton, 29 K. 364.
Special act excluding property from corporate limits of city, void. Gray v. Crockett, 30 K. 138.
What restrictions shall be imposed is a matter for the legislature. City of Newton v. Atchison, 31 K. 151.
Restrictions upon second-class cities sufficient to uphold license taxes. City of Newton v. Atchison, 31 K. 151.
License tax violating restrictions of charter or statute, void. City of Lyons v. Cooper, 39 K. 327.
Curative statutes applying to all cities of a class, valid. Manley v. Emlen, 46 K. 665.
Act authorizing county commissioners to build bridge in city, void. Comm'rs of Shawnee County v. The State, *ex rel.*, 49 K. 486.
County liable for improvement of street in front of courthouse. Comm'rs of Franklin County v. City of Ottawa, 49 K. 753.
County commissioners build bridge within city, controlled by city, valid. The State, *ex rel.*, v. Shawnee County, 57 K. 267.
Part of act admitted void hereunder, whole act held void. Conklin v. Hutchinson, 65 K. 582.
Completed proceedings enlarging corporate limits cannot be questioned collaterally. Topeka v. Dwyer, 70 K. 244.
Organization and existence of city not open to collateral attack. Levitt v. Wilson, 72 K. 160.
Special act attempting to vacate part of city, held void. Levitt v. Wilson, 72 K. 160.
Boundaries of city cannot be changed by special act. Davenport v. Ham, 72 K. 179.
Act applying to all cities and containing restrictions, held valid. Belleville v. Wells, 74 K. 827.
Implied restrictions on legislative power, discussed. Wulf v. Kansas City, 77 K. 362.
This and section 1 only restraints on regulating municipal government. The State v. Keener, 78 K. 651.
This section discussed relative to issue of bonds for university. The State v. Lawrence, 79 K. 234.
Act empowering cities to adopt commission plan of government, valid. Cole v. Dorr, 80 K. 253.
Acts changing city boundaries, held valid; doctrine of *stare decisis*. Bull v. Kelley, 83 K. 597.
Act authorizing county commissioners to maintain bridges, held permissive only. The State v. Franklin County, 84 K. 406.
Holding elections in city, governmental function, expenses not "contracting debts." The State, *ex rel.*, v. City of Hutchinson, 93 K. 412.

Municipal corporations, having no constitutional powers, restricted to legislative grant. Water, Light & Gas Co. v. City of Hutchinson, 144 Fed. 256.
General law applicable to only one city, held constitutional. Metropolitan Water Co. v. Kansas City, 164 Fed. 738.
City ordinance imposing an unreasonable license tax is void. Scriven v. City of Lebanon, 99 K. 607.
"City manager plan" act not repugnant, valid. The State, *ex rel.*, v. City of Wichita, 100 K. 401.

§ 241. TERM CORPORATIONS. § 6. The term corporations, as used in this article, shall include all associations and joint-stock companies having powers and privileges not possessed by individuals or partnerships; and all corporations may sue and be sued in their corporate name.

Only corporations proper covered by article; school district quasi corporation. Beach v. Leahy, *Treasurer*, 11 K. 23.

ARTICLE 13.—BANKS AND CURRENCY.

§1. Banks to be established by general law.
2. Security required from banks; auditor to register and countersign bills.
3. Additional security, when required.
4. Redemption of circulating notes; holders of notes to have preference.
5. State not to be a stockholder in any bank.
§6. Banks required to keep offices and officers at convenient places in state.
7. Limit of denomination of notes.
8. Banking law submitted to vote of people.
9. Banking law, amended or repealed.

§ 242. BANKING LAWS. § 1. No bank shall be established otherwise than under a general banking law.

Applies only to banks of issue, not deposit and discount. Pape v. Capitol Bank 20 K. 440.
This article discussed at length, showing banks contemplated by it. Pape v. Capitol Bank, 20 K. 441.
Language of foregoing case quoted. Fischer v. Moore, 69 K. 201.

§ 243. SHALL REQUIRE DEPOSIT. § 2. All banking laws shall require, as collateral security for the redemption of the circulating notes of any bank, organized under their provisions, a deposit with the auditor of state, of the interest-paying bonds of the several states or of the United States, at the cash rates of the New York stock exchange, to an amount equal to the amount of circulating notes which such bank shall be authorized to issue, and a cash deposit in its vaults of ten per cent of such amount of circulating notes; and the auditor shall register and countersign no more circulating bills of any bank, than the cash value of such bonds when deposited.

§ 244. WHEN SECURITY DEPRECIATES. § 3. Whenever the bonds pledged as collateral security for the circulation of any bank shall depreciate in value, the auditor of state shall require additional security, or curtail the circulation of such bank to such extent as will continue the security unimpaired.

§ 245. NOTES REDEEMABLE; PREFERENCE. § 4. All circulating notes shall be redeemable in the money of the United States Holders of such notes shall be entitled, in case of the insolvency of such banks, to preference of payment over all other creditors.

§ 246. STATE. § 5. The state shall not be a stockholder in any banking institution.

§ 247. BANKING OFFICES. § 6. All banks shall be required to keep offices and officers for the issue and redemption of their circulation, at a convenient place within the state, to be named on the circulating notes issued by such bank.

Section does not apply to banks of deposit. Pape v. Capitol Bank, 20 K. 443.

§ 248. DENOMINATION. § 7. No banking institution shall issue circulating notes of a less denomination than one dollar.

This section was submitted by the state legislature at the session of 1861 (Laws 1861, ch. 16), and was adopted by the people at the general election held November 5, 1861. Original section 7 was as follows:

"§ 7. No banking institution shall issue circulating notes of a less denomination than five dollars."

§ 249. VOTE ON LAW. § 8. No banking law shall be in force until the same shall have been submitted to a vote of the electors of the state at some general election, and approved by a majority of all the votes cast at such election.

No banking law has ever been submitted to proper vote. Pape v. Capitol Bank, 20 K. 442.

§ 250. AMENDED OR REPEALED. § 9. Any banking law may be amended or repealed.

ARTICLE 14.—AMENDMENTS.

§1. How proposed by legislature; how ratified by people.
§2. Convention, how called.

§ 251. AMENDMENTS. § 1. Propositions for the amendment of this constitution may be made by either branch of the legislature; and if two-thirds of all the members elected to each house shall concur therein, such proposed amendments, together with the yeas and nays, shall be entered on the journal; and the secretary of state shall cause the same to be published in at least one newspaper in each county of the state where a newspaper is published, for three months preceding the next election for representatives, at which time the same shall be submitted to the electors for their approval or rejection; and if a majority of the electors voting on said amendments at said election shall adopt the amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately; and not more than three propositions to amend shall be submitted at the same election.

Two or more amendments submitted, majority voting on either adopts. Prohibitory Amendment Cases, 24 K. 700.

Proposed amendment cannot be submitted after next general election. The State, *ex rel.*, v. Sessions, 87 K. 497.

§ 252. REVISION OR AMENDMENT. § 2. Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise, amend or change this constitution, they shall recommend to the electors to vote at the next election of members to the legislature, for or against a convention; and if a majority of all the electors voting at such election shall have voted for a convention, the legislature shall, at the next session, provide for calling the same.

ARTICLE 15.—MISCELLANEOUS.

§1. Officers not otherwise provided for to be as law directs.
2. Tenure may be fixed by law; if not fixed, to be at pleasure of the appointing power; not over four years.
3. Lotteries and sale of lottery tickets prohibited.
4. Public printer, how elected; term of office.
§5. Receipts and expenditures to be published.
6. Protection of rights of married women.
7. Salaries may be reduced for neglect of legal duty.
8. Temporary seat of government; permanent location by popular vote.
9. Homestead exemption.
10. Prohibition.

§ 253. OTHER OFFICERS. § 1. All officers whose election or appointment is not otherwise provided for, shall be chosen or appointed as may be prescribed by law.

No election provided by constitution or statute, election not valid. Matthews v. Comm'rs of Shawnee County, 34 K. 606.

Term of office and power to remove railroad commissioners, discussed. The State, *ex rel.*, v. Mitchell, 50 K. 289.
Section discussed in connection with appointment under biennial-election law. The State v. Andrews, 64 K. 489.
Section applied in upholding "veterans' preference law." Goodrich v. Mitchell, 68 K. 769.
Section applied to appointment of county auditor by district court. Sartin v. Snell, 87 K. 494.

§ 254. TENURE OF OFFICE. § 2. The tenure of any office not herein provided for may be declared by law; when not so declared such office shall be held during the pleasure of the authority making the appointment, but the legislature shall not create any office the tenure of which shall be longer than four years.

Section applied to removal of railroad commissioners by executive council. The State, *ex rel.*, v. Mitchell, 50 K. 294.
Where tenure of office fixed, governor cannot remove appointee arbitrarily. Lease v. Freeborn, 52 K. 754.
Where tenure of office unconstitutional, tenure "not declared by law." Lewis v. Lewelling, 53 K. 201.
Tenure four years and until successor appointed and qualified, constitutional. The State, *ex rel.*, v. Breidenthal, 55 K. 311.
Tenure of office six years, tenure "not declared by law." Wulf v. Kansas City, 77 K. 360.
Position of field man in health department not an office. Jagger v. Green, 90 K. 153.
Cell-house man in state penitentiary not an officer within section. Jones v. Botkin, 90 K. 242.
Policeman holds his office during pleasure of authority making appointment. Haney v. Cofran, 94 K. 332.
This section discussed in connection with civil service law. McLaughlin v. Green, 96 K. 643.
Statute, term of drainage district officers exceeding four years, invalid. The State, *ex rel.*, v. Drainage District, 102 K. 576.

§ 255. LOTTERIES. § 3. Lotteries and the sale of lottery tickets are forever prohibited.

Scheme for distribution of prizes by chance is a "lottery." The State, *ex rel.*, v. Mercantile Association, 45 K. 351.
Operating "lottery" is "unlawful calling" under crimes act. *In re* Smith, *Petitioner*, 54 K. 702.

§ 256. STATE PRINTER. § 4. All public printing shall be done by the state printer, who shall be elected by the people at the election held for state officers in November, 1906, and every two years thereafter, at the elections held for state officers, and shall hold his office for two years and until his successor shall be elected and qualified.

This section was submitted by the legislature at the session of 1903, and was adopted by the people at the general election in November, 1904. The section as amended in 1868 was as follows:

"§ 4. All public printing shall be done by a state printer, who shall be elected by the legislature in joint session, and shall hold his office for two years and until his successor shall be elected and qualified. The joint session of the legislature for the election of a state printer shall be on the third Tuesday of January, A. D. 1869, and every two years thereafter. All public printing shall be done at the capital, and the prices for the same shall be regulated by law."

Original section 4 was as follows:

"§ 4. All public printing shall be let on contract, to the lowest responsible bidder, by such executive officers and in such manner as shall be prescribed by law."

Annotations to amendment of 1868:

Election of state printer by joint convention of houses, considered. Prouty v. Stover, *Lieut. Governor*, 11 K. 235.
Statute authorizing "executive council" to designate "official state paper," valid. Reed v. Francis, 22 K. 510.
Rate of compensation for publication in "official state paper," discussed. Kansas Breeze Co. v. Edwards, 55 K. 630.
Statute requiring concurrence of majority elected to each house, invalid. Snow v. Hudson, 56 K. 378.

§ 257. ACCOUNTS PUBLISHED. § 5. An accurate and detailed statement of the receipts and expenditures of the public moneys, and the several amounts paid, to whom, and on what account, shall be published, as prescribed by law.

§ 258. RIGHTS OF WOMEN. § 6. The legislature shall provide for the protection of the rights of women, in acquiring and possessing property,

real, personal and mixed, separate and apart from the husband; and shall also provide for their equal rights in the possession of their children.

Female under eighteen, minor; each parent natural guardian of person. The State v. Jones, 16 K. 611.
Father and mother are natural guardians of persons of minors. The State v. Angel, 42 K. 222.
Father and mother equal right to possession, etc., of minors. Miller v. Morrison, 43 K. 448.
This section discussed in connection with homestead exemption. Cross v. Benson, 68 K. 501.
Coverture, no separate estate, does not invalidate married woman's contract. Harrington v. Lowe, 73 K. 1.
Neither husband nor wife bound to pay taxes on other's real estate. Nagle v. Tieperman, 74 K. 32.
Property of other spouse is property "of another," for arson. The State v. Shaw, 79 K. 396.
Mechanic's lien on married woman's property, contract with husband, valid. Garrett v. Loftus, 82 K. 556.
Section applied, discussing competency of wife to testify for husband. Harris v. Brown, 187 Fed. 9.
Ch. 72, G. S. 1915 (property transferred from spouse to spouse), in consonance. Brecheisen v. Clark, 103 K. 667.
In holding, owning and controlling property, wife and husband equal. Putnam v. Putnam, 104 K. 52.

§ 259. SALARIES REDUCED FOR NEGLECT OF DUTY. § 7. The legislature may reduce the salaries of officers who shall neglect the performance of any legal duty.

§ 260. TEMPORARY CAPITAL. § 8. The temporary seat of government is hereby located at the city of Topeka, county of Shawnee. The first legislature under this constitution shall provide by law for submitting the question of the permanent location of the capital to a popular vote, and a majority of all the votes cast at some general election shall be necessary for such location.

§ 261. HOMESTEAD. § 9. A homestead to the extent of one hundred and sixty acres of farming land, or of one acre within the limits of an incorporated town or city, occupied as a residence by the family of the owner, together with all the improvements on the same, shall be exempted from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife, when that relation exists; but no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon: Provided, The provisions of this section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife.

This section was adopted apart from the remainder of the constitution by 8788 votes *for*, to 4772 *against*, see sec. 25 of schedule, page 650.
Lien of mortgage by both unaffected by deed by husband. Hill v. Alexander, 2 K. A. 250.
Occupation of family of owner essential; when exemption attaches, discussed. Dobson v. Shoup, 3 K. A 468.
Actual occupation within reasonable time; selection from larger tract, discussed. State Bank v. Peak, 3 K. A. 698.
Money borrowed for erecting residence constitutes "obligation contracted for improvements." Beckenheuser v. Ferrell, 8 K. A. 365.
Special assessment for guttering and paving is a "tax." Todd v. Atchison, 9 K. A. 251.
This section does not contravene federal constitution (art. 1, sec. 10). Cusic v. Douglas, 3 K. 123.
Homestead exemption good as against judgment rendered before constitution adopted. Cusic v. Douglas, 3 K. 123.
Mortgage of homestead executed by husband alone is void. Morris v. Ward, 5 K. 239.
Judgment against husband alone is not a lien on homestead. Morris v. Ward, 5 K. 239.
Owner living outside city, land in city not exempt. Sarahas v. Fenlon, 5 K. 592.
Vendee of husband, wife refusing to convey, entitled to damages. Lister v. Batson, 6 K. 420.
Wife signing deed under duress, "good faith" of purchaser immaterial. Anderson v. Anderson, 9 K. 112.
When tract of land becomes part of homestead discussed. Edwards v. Fry, 9 K. 417.
Homestead purchased, occupancy within reasonable time, exempt from time purchased. Monroe v. May, Weil & Co., 9 K. 466.

Wife signing under duress, sue to have signature declared void. Helm v. Helm, 11 K. 19.
Surplus proceeds not applicable to judgment, not lien on homestead. Mitchell v. Milhoan. 11 K. 617.
Attachment prior to occupation as homestead, superior to homestead right. Bullene v. Hiatt, 12 K. 98.
Homestead must lie in one tract or body of land. Randal v. Elder, 12 K. 257.
Wife signing mortgage not entitled to all privileges of surety. Jenness v. Cutler. 12 K. 500.
Mortgage by husband void as to other than purchase-money. Pratt v. Topeka Bank. 12 K. 570.
Homestead sold under mortgage by wife for purchase-money. Andrews v. Alcorn. 13 K. 351.
Mortgage by husband on homestead owned by wife absolutely void. Ayers v. Probasco. 14 K. 175.
Divorce to either party, court, if facts justify, may award homestead to wife. Brandon v. Brandon, 14 K. 342.
Homestead interest may be acquired by owner of equitable interest. Tarrant v. Swain. 15 K. 146.
Property attached, later becomes homestead of defendants, attachment remains valid. Robinson v. Wilson, 15 K. 595.
Mortgage by husband without wife's consent, for purchase-money, held valid. Nichols v. Overacker, 16 K. 58.
General creditor's right to have mortgage satisfied by homestead, denied. Colby v. Crocker. 17 K. 527.
Procedure where property claimed as homestead is levied upon, discussed. Gapen v. Stephenson, 17 K. 613.
Equities of family of mortgagor superior to claims of judgment creditor. LaRue v. Gilbert, 18 K. 220.
"Probably" homestead may be taken on any spot in Kansas. Hixon v. George, 18 K. 253.
Purchase by husband, title in wife, claims of creditors, discussed. Hixon v. George. 18 K. 253.
Judgment on promissory note for purchase-money, not lien on land. Greeno v. Barnard. 18 K. 518.
Execution of mortgage on homestead by illiterate person, discussed. Roach v. Karr. 18 K. 529.
Homestead sold under lien on real estate decreed in divorce. Blankenship v. Blankenship, 19 K. 159.
Attachment before occupancy as homestead is prior to homestead right. Hiatt v. Bullene. 20 K. 557.
Acquiring new home in city relinquishes homestead right on farm. Savings Bank v. Wheeler's Adm'r, 20 K. 625.
Occupancy as homestead after judgment lien attached will not defeat judgment lien. Ashton v. Ingle, 20 K. 670.
House rented to tenant as residence, no part of homestead. Ashton v. Ingle, 20 K. 670.
Occupation, actual or constructive, essential to constitute premises a homestead. Swenson v. Kiehl, 21 K. 533.
Equity favors protection of homestead from creditors. Homestead exemption, construed. Sproul v. Atchison National Bank, 22 K. 336.
Public gristmill on portion of tract, no part of homestead. Mouriquand v. Hart, 22 K. 594.
Deed to wife without money consideration, held good against heir. Horder v. Horder. 23 K. 391.
Lease by husband alone, which interferes with wife's possession, invalid. Coughlin v. Coughlin, 26 K. 116.
Property not exempt where owner's family resided in another state. Farlin v. Sook. 26 K. 397.
Homestead not conveyed by separate deeds of husband and wife. Ott v. Sprague, 27 K. 620.
Wife had never resided here, deed by husband held valid. Koons v. Rittenhause, 28 K. 359.
Right to sell homestead of insane person for alimony, denied. Birdzell v. Birdzell. 33 K. 433.
Mortgage without joint consent of husband and wife, held void. Howell, Jewett & Co. v. McCrie, 36 K. 636.
Wife agreed to sell, grantee made improvements, specific performance enforced. Perrine v. Mayberry, 37 K. 258.
Mortgage lien on homestead not created without wife's written consent. Jenkins v. Simmons, 37 K. 496.
Husband owned homestead, wife's consent necessary to alienate railroad right-of-way. Pilcher v. A. T. & S. F. Rld. Co., 38 K. 516.
Homestead not destroyed by lease of part of building. Bebb v. Crowe, 39 K. 342.
Tests of what constitutes homestead, discussed. Bebb v. Crowe, 39 K. 342.
Wife owning homestead, having no children, may devise one-half interest. Vining v. Willis, 40 K. 609.
Mechanic's lien, no personal property found, homestead sold under execution. Tyler v. Johnson, 47 K. 410.
Forty acres, cornering on forty where owner resides, not exempt. Linn County Bank v. Hopkins, 47 K. 580.
Residence and building on same lots rented as rooms, exempt. Layson v. Grange. 48 K. 440.
Occupancy must follow within reasonable time after purchase. Ingels v. Ingels, 50 K. 755.
Occupancy after levy of execution does not change parties' rights. Ingels v. Ingels, 50 K. 755.

Homestead may be appropriated for public use without owner's consent. Jockheck v. Comm'rs of Shawnee County, 53 K. 780.
Mortgage, wife's duress available against innocent holder of note secured. Berry v. Berry, 57 K. 691.
Partition cannot be made against objection of minor children. Trumbly v. Martell, 61 K. 703.
Unmarried daughter of intestate continued to occupy homestead, not exempt. Battey v. Barker, 62 K. 517.
Wife took homestead under will, mortgage by her held valid. Allen v. Holtzman, 63 K. 40.
Widower occupying homestead alone, children having gone, not exempt. Ellinger v. Thomas, 64 K. 180.
Alienation, joint consent may be evidenced by acts *in pais*. Sullivan v. Wichita, 64 K. 539.
Expressing willingness to join, but not joining, not joint consent. Durand v. Higgins, 67 K. 110.
Homestead, conveyance by husband and insane wife's guardian conveys nothing. Adams v. Gilbert, 67 K. 273.
Wife continues to be "family of owner" after husband's death. Cross v. Benson, 68 K. 495.
Occupation by widow is occupation by "family of owner," exempt. Aultman v. Price, 68 K. 640.
Joint consent to lease shown when wife did not sign. Johnson v. Samuelson, 69 K. 263.
Homestead, purchase-money advanced under promise to execute mortgage constitutes lien. Foster v. Bank, 71 K. 158.
Husband of insane woman cannot, by any conduct, alienate homestead. Withers v. Love, 72 K. 140.
Wife estopped by conduct to object to husband's lease. Shaw v. Bevis, 72 K. 208.
Intention to occupy must be accompanied by some overt act. Bush v. Adams, 72 K. 556.
Section applied in upholding married woman's contract. Harrington v. Lowe, 73 K. 18.
Homestead exemption applies to surviving husband or wife alone. Weaver v. Bank, 76 K. 540.
When homestead rights attach upon removal to other property, discussed. Randolph v. Wilhite, 78 K. 355.
Section applied, holding wife's house property of another, for arson. The State v. Shaw, 79 K. 396.
Statute of descents and distributions not in conflict with this section. Towle v. Towle, 81 K. 675.
"Occupied as a residence," construed; under facts stated, not exempt. Quinton v. Adams, 83 K. 484.
Husband not party to action, lien for improvements not binding. King v. Wilson, 95 K. 390.
Homestead sold to satisfy judgment for improvements made thereon, valid. Manufacturing Co. v. Haughton, 97 K. 530.
Divorce decree may award wife homestead, subject to husband's lien. Hamm v. Hamm, 98 K. 360.
Section cited in special concurrence. Postlethwaite v. Edson, 102 K. 619.
"Homestead" made with special reference to family occupying it. Thompson v. Millikin, 102 K. 721.
Widow of deceased owner occupying homestead is his "family." Koehler v. Gray, 102 K. 881.
Immaterial whether title to "homestead" is in husband or wife. Putnam v. Putnam, 104 K. 53.

§ 262. PROHIBITION. § 10. The manufacture and sale of intoxicating liquors shall be forever prohibited in this state, except for medical, scientific and mechanical purposes.

The foregoing amendment was submitted by the legislature at the session of 1879, and was adopted by the people at the general election held November 2, 1880.

State has power to prohibit manufacture and sale as beverage. Prohibitory-Amendment Cases, 24 K. 700.
Under statute, physician could not furnish intoxicating liquor without permit. The State v. Fleming, 32 K. 588.
Law prohibiting manufacture and sale, not repugnant to federal constitution. Foster v. The State of Kansas, 32 K. 765.
Legislature may absolutely prohibit manufacture or sale of intoxicating liquors. The State v. Durein, 70 K. 13.
Statute prohibiting sale for any purpose, held valid. The State v. Weiss, 84 K. 165.
Provisions of "Bone-Dry Law" accord with. See ch. 215, Laws 1917. State v. Berry, 103 K. 891.

SCHEDULE.

§1. Continuation of suits, actions, etc.
2. Fines, penalties, bonds, etc., continued.
3. Governor, secretary, judges, etc., to hold until superseded.
4. Continuance of laws until repealed or expiration.
5. Governor to use private seal until state seal is provided.
§6. Certain offices to be kept at seat of government.
7. Records, documents, books, etc., how disposed of.
8. Suits, pleas, proceedings, etc., to continue.
9. Vote on adoption or rejection of constitution.

§10. Vote, how to be cast.
11. If adopted, an election to be held for members of legislature and other officers.
12. Persons allowed to vote at first election.
13. Votes to be registered.
14. Judges of election to take an oath; vacancies in board, how filled.
15. Hours of election.
16. Poll books to be furnished.
17. Votes, how counted; returns, how made.
18. Poll books and tally lists, how kept or returned; time for making returns.
§19. County tribunals to canvass votes; to make returns to president of convention.
20. Board of state canvassers; result, how declared.
21. Proclamation announcing elections.
22. Copies to be transmitted to president and to officers of congress.
23. Duty of governor upon notice of admission of state.
24. First legislature not to change county lines.
25. Separate vote on homestead question.

§ 263. FROM A TERRITORIAL TO A STATE GOVERNMENT. § 1. That no inconvenience may arise from the change from a territorial government to a permanent state government, it is declared by this constitution that all suits, rights, actions, prosecutions, recognizances, contracts, judgments, and claims, both as respects individuals and bodies corporate, shall continue as if no change had taken place.

Does not exempt judgment, rendered prior, from constitutional homestead exemption. Cusic v. Douglas, 3 K. 123.

§ 264. PENALTIES, BONDS, ETC. § 2. All fines, penalties and forfeitures, owing to the territory of Kansas, or any county, shall inure to the use of the state or county. All bonds executed to the territory, or any officer thereof, in his official capacity, shall pass over to the governor, or other officers of the state or county, and their successors in office, for the use of the state or county, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

§ 265. OFFICERS OF THE TERRITORY. § 3. The governor, secretary and judges, and all other officers, both civil and military, under the territorial government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this constitution.

Members of the legislature are "officers" of the government. The State, *ex rel.*, v. Meadows, 1 K. 91.

§ 266. LAWS. §4. All laws and parts of laws in force in the territory at the time of the acceptance of this constitution by congress, not inconsistent with this constitution, shall continue and remain in full force until they expire, or shall be repealed.

Corporation incorporated by territorial legislature held legally existing corporation. The State, *ex rel.*, v. Stormont, 24 K. 686.

§ 267. SEAL. § 5. The governor shall use his private seal until a state seal is provided.

§ 268. OFFICES, WHERE KEPT. § 6. The governor, secretary of state, auditor of state, treasurer of state, attorney-general, and superintendent of public instruction shall keep their respective offices at the seat of government.

§ 269. COURT RECORDS AND DOCUMENTS. § 7. All records, documents, books, papers, moneys and vouchers belonging and pertaining to the several territorial courts and offices and to the several districts and county offices, at the date of the admission of this state into the Union, shall be disposed of in such manner as may be prescribed by law.

§ 270. SUITS AND PROCEEDINGS. § 8. All suits, pleas, plaints and other proceedings pending in any court of record, or justice's court, may be prosecuted to final judgment and execution; and all appeals, writs of error, *certiorari,* injunctions, or other proceedings whatever, may progress and

be carried on as if this constitution had not been adopted; and the legislature shall direct the mode in which such suits, pleas, plaints, prosecutions and other proceedings, and all papers, records, books and documents connected therewith, may be removed to the courts established by this constitution.

State courts, cases not transferred from territorial until provision made. McCollum v. Pipe, 7 K. 189.

§ 271. RATIFICATION OR REJECTION. § 9. For the purpose of taking the vote of the electors of this territory for the ratification or rejection of this constitution, an election shall be held in the several voting precincts in this territory, on the first Tuesday in October, A. D. 1859.

§ 272. HOW TO VOTE. § 10. Each elector shall express his assent or dissent by voting a written or printed ballot labeled "For the Constitution," or "Against the Constitution."

§ 273. MAJORITY IN FAVOR. § 11. If a majority of all the votes cast at such election shall be in favor of the constitution, then there shall be an election held in the several voting precincts on the first Tuesday in December, A. D. 1859, for the election of members of the first legislature, of all state, district and county officers provided for in this constitution, and for a representative in congress.

§ 274. PERSONS QUALIFIED TO VOTE. § 12. All persons having the qualification of electors, according to the provisions of this constitution, at the date of each of said elections, and who shall have been duly registered according to the provisions of the registry law of this territory, and none others, shall be entitled to vote at each of said elections.

§ 275. JUDGES OF ELECTION. § 13. The persons who may be judges of the several voting precincts of this territory at the date of the respective elections in this schedule provided for, shall be the judges of the respective elections herein provided for.

§ 276. THE SAME; CLERKS. § 14. The said judges of election, before entering upon the duties of their office, shall take and subscribe an oath faithfully to discharge their duties as such. They shall appoint two clerks of election, who shall be sworn by one of said judges faithfully to discharge their duties as such. In the event of a vacancy in the board of judges, the same shall be filled by the electors present.

§ 277. POLLS OPEN, WHEN. § 15. At each of the elections provided for in this schedule the polls shall be open between the hours of nine and ten o'clock a. m. and closed at sunset.

§ 278. POLL BOOKS. § 16. The tribunals transacting county business of the several counties shall cause to be furnished to the boards of judges in their respective counties two poll books for each election hereinbefore provided for, upon which the clerks shall inscribe the name of every person who may vote at the said elections.

§ 279. VOTES TO BE COUNTED. § 17. After closing the polls at each of the elections provided for in this schedule, the judges shall proceed to count the votes cast, and designate the persons or objects for which they were cast, and shall make two correct tally lists of the same.

§ 280. POLL BOOKS AND TALLY LISTS. § 18. Each of the boards of judges shall safely keep one poll book and tally list, and the ballots cast at each election; and shall, within ten days after such election, cause the other poll book and tally list to be transmitted, by the hands of a sworn officer, to the clerk of the board transacting county business in their re-

spective counties, or to which the county may be attached for municipal purposes.

§ 281. CANVASS OF VOTES; TRANSCRIPT. § 19. The tribunals transacting county business shall assemble at the county seats of their respective counties on the second Tuesday after each of the elections provided for in this schedule, and shall canvass the votes cast at the elections held in the several precincts in their respective counties, and of the counties attached for municipal purposes. They shall hold in safe keeping the poll books and tally lists of said elections, and shall, within ten days thereafter, transmit, by the hands of a sworn officer, to the president of this convention, at the city of Topeka, a certified transcript of the same, showing the number of votes cast for each person or object voted for at each of the several precincts in their respective counties, and in the counties attached for municipal purposes, separately.

§ 282. STATE CANVASSERS. § 20. The governor of the territory and the president and secretary of the convention shall constitute a board of state canvassers, any two of whom shall be a quorum; and who shall, on the fourth Monday after each of the elections provided for in this schedule, assemble at said city of Topeka, and proceed to open and canvass the votes cast at the several precincts in the different counties of the territory, and declare the result; and shall immediately issue certificates of election to all persons (if any) thus elected.

§ 283. RESULT. § 21. Said board of state canvassers shall issue their proclamation not less than twenty days next preceding each of the elections provided for in this schedule. Said proclamation shall contain an announcement of the several elections, the qualifications of electors, the manner of conducting said elections and of making the returns thereof, as in this constitution provided, and shall publish said proclamation in one newspaper in each of the counties of the territory in which a newspaper may be then published.

§ 284. COPIES TO UNITED STATES AUTHORITIES. § 22. The board of state canvassers shall provide for the transmission of authenticated copies of the constitution to the president of the United States, the president of the senate and speaker of the house of representatives.

§ 285. PROCLAMATION. § 23. Upon official information having been by him received of the admission of Kansas into the union as a state, it shall be the duty of the governor-elect under the constitution to proclaim the same, and to convene the legislature, and to do all things else necessary to the complete and active organization of the state government.

Territorial legislature not superseded until governor's proclamation for state legislature. The State, *ex rel.*, v. Meadows, 1 K. 91; The State, *ex rel.*, v. Hitchcock, 1 K. 178.

§ 286. COUNTY LINES. § 24. The first legislature shall have no power to make any changes in county lines.

§ 287. HOMESTEAD PROVISION. § 25. At the election to be held for the ratification or rejection of this constitution, each elector shall be permitted to vote on the homestead provision contained in the article on "Miscellaneous," by depositing a ballot inscribed "For the Homestead," or "Against the Homestead"; and if a majority of all the votes cast at said election shall be against said provision, then it shall be stricken from the constitution.

See section 9, art. 15, page 645.

RESOLUTIONS.

SUNDRY RESOLUTIONS. *Resolved*, That the congress of the United States is hereby requested, upon the application of Kansas for admission into the union, to pass an act granting to the state forty-five hundred thousand acres of land to aid in the construction of railroads and other internal improvements.

Resolved, That congress be further requested to pass an act appropriating fifty thousand acres of land for the improvement of the Kansas river from its mouth to Fort Riley.

Resolved, That congress be further requested to pass an act granting all swamp lands within the state for the benefit of common schools.

Resolved, That congress be further requested to pass an act appropriating five hundred thousand dollars, or in lieu thereof five hundred thousand acres of land, for the payment of the claims awarded to citizens of Kansas by the claim commissioners appointed by the governor and legislature of Kansas under an act of the territorial legislature passed 7th February, 1859.

Resolved, That the legislature shall make provision for the sale or disposal of the lands granted to the state in aid of internal improvements and for other purposes, subject to the same rights of preëmption to the settlers thereon as are now allowed by law to settlers on the public lands.

Resolved, That it is the desire of the people of Kansas to be admitted into the union with this constitution.

Resolved, That congress be further requested to assume the debt of this territory.

Done in convention at Wyandotte, this 29th day of July, A. D. 1859.

JAMES M. WINCHELL,

President of the Kansas Constitutional Convention, and Member from Osage County.

Robt. Graham,	Caleb May,	Saml. E. Hoffman,
J. A. Middleton,	S. D. Houston,	James H. Signor,
John Taylor Burris,	Josiah Lamb,	Robt. J. Porter,
Wm. Hutchinson,	John James Ingalls,	Luther R. Palmer,
N. C. Blood,	Saml. A. Kingman,	R. L. Williams,
John P. Greer,	James Blood,	P. H. Townsend,
W. P. Dutton,	S. O. Thacher,	H. D. Preston,
Wm. McCullough,	Edwin Stokes,	Edmund G. Ross,
Jas. G. Blunt,	John Ritchie,	James Hanway,
J. C. Burnett,	Benjamin F. Simpson,	Allen Crocker,
Wm. R. Griffith,	James M. Arthur,	George H. Lillie.

JOHN A. MARTIN, *Secretary.*

The following-named delegates to the Wyandotte convention did not sign the constitution:

J. P. Slough,	John Wright,	Sam. Hipple,
C. B. McClelland,	W. Perry,	S. A. Stinson,
J. W. Forman,	E. Moore,	R. C. Foster,
J. Stiarwalt,	P. S. Parks,	J. T. Barton,
W. C. McDowell,	E. M. Hubbard,	B. Wrigley,
A. D. McCune,	F. Brown,	T. S. Wright.

APPENDIX C.

THE WYANDOTTE CONSTITUTIONAL CONVENTION.

RECOLLECTIONS BY HON. BENJAMIN F. SIMPSON.

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The delegates that assembled at Wyandotte on the 5th day of July, 1859, to form a constitution for the State of Kansas, met in the shadow of coming events. For even then the approaching glory of Lincoln was lighting up the shame of the Buchanan administration, and the throes of that eventful struggle that resulted in the death of slavery were beginning to be felt through all the land. They were an earnest and thoughtful class of men, who believed that the National Republican party would soon control the Government, and admit Kansas into the Union, and to them had been committed the task of laying deep and broad the foundation of a new political fabric, rearing the superstructure, placing the columns, designing the entablement, adjusting the dome, and surrounding the structure with all the evergreens of a well-regulated State.

They numbered fifty-two; and of these thirty-five were Republicans, and seventeen Democrats—it being the only Constitutional convention held in the Territory in which all parties participated. Eighteen delegates were lawyers, sixteen farmers, eight merchants, and five physicians; while the surveyors, land agents, manufacturers, mechanics and printers each had one or more representatives.

Robert Graham, of Atchison county, was the oldest member, and his years numbered fifty-five. Benjamin F. Simpson, of Lykins, who was in his twenty-third year, was the youngest. Eighteen delegates were less than thirty years old, eleven delegates were over forty, while one exceeded fifty years of age.

Five were from Kentucky, one from Virginia, and England, Ireland, Scotland and Germany contributed one each.

THE DELEGATES BY COUNTIES.

Marshall and Washington counties were represented by J. A. Middleton, a young lawyer, native of Pennsylvania, and twenty-five years of age.

Nemaha sent Thomas S. Wright, a Pennsylvania lawyer, aged fifty years.

Brown was represented by Samuel A. Kingman, a native of Massachusetts, and then in his thirty-eighth year.

Doniphan sent down Benj. Wrigley, formerly of Ohio, a lawyer, and twenty-nine years old; John W. Forman, a merchant, from Kentucky, aged forty years; E. M. Hubbard, merchant, a native of Kentucky, and thirty years of age; J. Stiarwalt, farmer, from Ohio, and forty-six years old; R. J. Porter, a merchant, of Troy, a native of Pennsylvania, and twenty-eight years old.

Atchison elected Robt. Graham, a native Irishman, a merchant by occupation, aged forty-five years; Caleb May, a Kentuckian, farmer, in his forty-fourth year; and John James Ingalls, born in Massachusetts, a lawyer, aged twenty-six years.

Leavenworth contributed Samuel A. Stinson, a native of Maine, lawyer by profession, aged twenty-six; Wm. C. McDowell, born in Ohio, a lawyer, and thirty-one years old; John P. Slough, of Ohio, lawyer, thirty years old; William Perry, a native of New York, lawyer, aged twenty-eight years; Frederick Brown, a native of Germany, by occupation a manufacturer, and thirty-two years old; Samuel Hipple, formerly of Pennsylvania, a land agent, twenty-eight years old; Robert C. Foster, born in Kentucky, a lawyer, aged twenty-four years; A. D. McCune, Ohio, a farmer, aged thirty-one years; John Wright, Indiana, a farmer, thirty-three years old; and Paschal S. Parks, Indiana, a lawyer, twenty-six years old.

From Johnson county there was John T. Burris, born in Ohio, a lawyer, and Dr. John T. Barton, a native of Virginia, who had lived twenty-eight years.

Lykins county was there, in the persons of W. P. Dutton, born in New Hampshire, farmer, forty-two years old; and B. F. Simpson, Ohio, a lawyer, in his twenty-third year.

The delegates from Linn county were: J. M. Arthur, born in Indiana, a farmer, and aged forty-two, and Josiah Lamb, originally from Indiana, a mechanic, and of the same age as his colleague.

Bourbon county sent J. C. Burnett, a Vermonter, farmer, aged thirty-two, and William R. Griffith, a native of Indiana, a farmer, and thirty-nine years old.

The delegate from Allen county was J. H. Signor, formerly of New York, a surveyor, and only twenty-five years old.

Woodson and Coffey sent Allen Crocker, a native of Indiana, a farmer, and thirty-five years old, and Samuel E. Hoffman, born in Pennsylvania, a lawyer, aged twenty-five years.

From Anderson county, James G. Blunt was sent. He was born in Maine, was a physician, and thirty-three years old.

Franklin county was represented by James Hanway, a native of England, a farmer, and was forty-nine years old.

Douglas county had seven delegates, as follows: Solon O. Thacher, born in New York, a lawyer, twenty-eight years old; James Blood and his brother, N. C. Blood, natives of Vermont, both merchants, the first thirty-nine and the other forty-two years of age; Wm. Hutchinson, a Vermonter, farmer, and thirty-five years old; R. L. Williams, born in Kentucky, a merchant, and aged forty-two years; P. H. Townsend, New Hampshire, a farmer, thirty-three years old; and Ed. Stokes, a Pennsylvanian, a manufacturer, thirty-five years of age.

Shawnee county sent John P. Greer, a native of Ohio, a lawyer, aged thirty-eight; John Ritchie, Ohio, farmer, aged forty-one; and H. D. Preston, New Hampshire, farmer, aged twenty-eight.

Madison, Hunter, Greenwood, Butler and Wilson counties constituted one district, and elected George H. Lillie, of Ohio, a lawyer, thirty-five years old.

Osage, Morris, Breckenridge and Chase counties made one district, and sent James M. Winchell and William McCullough, who was a native of Scotland, a farmer, and aged forty-four.

Wabaunsee, Davis, Dickinson, and Clay counties were a district, represented by E. G. Ross, who was a native of Ohio, a printer, and thirty-two years old.

Pottawatomie county sent Luther R. Palmer, a native of New York, a physician, and forty years old.

Jefferson county was represented by C. B. McClelland, Ohio, a merchant, thirty years old.

Jackson county sent Ephraim Moore, Ohio, a manufacturer, aged thirty years.

Riley county was heard from in the person of Samuel D. Houston, a native of Ohio, a farmer, aged forty years.

A very large proportion of these delegates were comparatively new men, who had not participated in the Free-State meetings and councils, and were unacquainted with each other. This enabled the old stagers in Territorial politics, like Winchell, Thacher, Ritchie, Ross, Blood, Kingman, Hutchinson, Hanway, and Houston, to control the organization.

This was not had, however, without the usual picket firing and reconnoissance in force, for in those days the Neosho Valley, the Border Tier, and Nineteen Disfranchised Counties were jealous of the Lawrence and Leavenworth politicians; and little geographical tea parties, like the one recently held at Great Bend, where men spit blood, breathed fire, and predicted the most direful results if the valleys were ignored by the highlands, were of frequent occurrence.

THE PRESIDENT OF THE CONVENTION.

The fight for the presidency of the Convention gave occasion for the invocation of this local prejudice, and James M. Winchell, who was interested in a town called Superior, in Osage county, but who spent most of his time in Lawrence, or oscillating between these points, was the beneficiary of this senseless antagonism between combative localities, and was chosen permanent president of the Convention. He was a skillful organizer, and a shrewd manipulator of men. His victory was the easier from the fact that none of the more celebrated chiefs of the Free-State party were members of the Convention. Lane, Robinson, Pomeroy, Conway, and Phillips were not candidates, while Ewing and Parrott were beaten at the election—Leavenworth county, at that time, being darkened by the fogs and smoke of a Democratic majority.

Winchell came to the Territory as the accredited correspondent of the *New York Times;* was about thirty-five years of age, rather under the medium height, of delicate frame and slight build; was an accomplished parliamentarian, of quick perceptions, great decision and remarkably clear statement; his manners were genial, he was a fluent speaker, and possessed the average impartiality of a presiding officer. He had the first and most essential qualifications of a successful man, for he fully recognized the fact that absolute fidelity to friends was the basis of all political action, and he gave to those who had championed his cause for the presidency the chairmanship of the most important committees. He was addicted to a blue coat and brass buttons—of course, a swallow-tail. A frock with brass buttons is an abomination in the sight of the Lord, and is never permitted outside of the army and the other branch of the service that was presided over so long and gracefully by that Neptune of the Wabash, whose first lesson of seamanship was poling Judge Usher across the river in a flat-bottomed craft called a scow.

The manner in which he presided over the Convention, his judicious use of the patronage of his position; his efforts on the floor, showing thought, research and ability as a debater, and a capacity for other and better places, made Winchell many friends and some reputation, and he began to talk and be talked about for the United States Senate—for be it ever remembered that Washington is the Mecca of the average Kansas politician; the Senate the Beitu-'llah; the Committee of Indian Affairs the gray stone at the southeast angle of the Kaaba that it is so meritorious to touch. As soon as the Constitutional Convention adjourned, most of

the members went to Lawrence as delegates to the Congressional Convention, and they there made Winchell president of that. On the 12th day of October succeeding came the Convention to nominate State officers, under the Wyandotte Constitution. Winchell made an effort to obtain the presidency of that, but was defeated by Wm. A. Phillips, of Arapahoe county, by two votes. Arapahoe county at that time embraced all of the territory west of the Dickinson county line that now constitutes the larger part of Kansas, and the greater part if not all of Colorado. Winchell's next appearance was in the Territorial Legislature—the last—as a candidate for Speaker of the House of Representatives, but John W. Scott, of Allen county, defeated him. He lingered in the State until Lane and Pomeroy were chosen as our first Senators, and then went back to New York, where he died a few years ago.

The last House of Representatives of the Territorial Legislature contained seven members who were among the delegates to the Wyandotte Convention—Wm. Perry, of Leavenworth county; Geo. H. Lillie, of Breckenridge; John T. Burris, of Johnson; B. F. Simpson, of Lykins; James Hanway, of Franklin; James M. Winchell, of Osage; and J. C. Burnett, of Bourbon. Three of its members subsequently became Attorney-General of the State, and I give them in the order of their election: Simpson, Guthrie, and Brumbaugh. But to return to the convention, and reserve this House for a future sketch.

S. O. THACHER, of Douglas county, was made President *pro tem.*, with great unanimity, a large minority having favored his election as President instead of Winchell. The applicants for the position of Secretary of the Convention were numerous and untiring in their solicitation of members for their votes and influence, but no one of them seemed to be regarded with the degree of favor that created reasonable probabilities of success, and doubts were entertained of their fitness for the place.

THE SECRETARY.

John A. Martin, of Atchison, was there to witness the opening ceremonies, and to report them for his paper. He was a most devoted crusader in the cause of freedom; was young, enthusiastic, hopeful, and withal of practical methods. Two years before he had invaded a strong Pro-Slavery neighborhood, bought what had been their own newspaper, and thus employed one of their most formidable batteries against them, and had been largely instrumental in working up a Free-State sentiment that was then strong enough to control that locality. He had been one of the warmest advocates of the organization of the Republican party in the Territory, and was one of the secretaries of the Osawatomie convention. His generous treatment of the public men of the Territory, his freedom from local or personal prejudice, was in such marked contrast to the action of many of his cotemporaries as to create a most friendly feeling in his behalf, and the delegates generally had confidence in his judgment and discretion; so that the suggestion of his name as secretary, at a consultation of delegates held to consider that and other questions, was accepted at once and with great unanimity as the proper solution of the difficulty of selection. The first intimation he had of the action of that caucus was when its committee waited on him, and urged him to accept the place. It is perhaps useless to add that he discharged the duties of secretary to the entire satisfaction of the body, and his bearing and conduct were such that he endeared himself to the delegates; and to-day, whenever you find a member of that body, you find a warm friend and ardent admirer of John A. Martin.

My record of him might stop here; but it is so pleasant to say kind words of a friend, with the consciousness that no one can truthfully say aught else, that I add his subsequent well-known history. He was one of the first state senators from Atchison county, and then postmaster of the city; led one of our best infantry regiments as a colonel during most of its term of service—a gallant soldier, without stain or blemish; has represented the Republicans in all but one national convention since 1860; is now serving the fourth term as a member of the National Committee; and has fostered and improved his paper, until to-day it is the most influential of all our dailies.

J. L. Blanchard, of Anderson county, was selected for Assistant Secretary, and made Col. Martin a very popular and efficient help-mate.

THE SERGEANT AND CHAPLAIN.

The position of sergeant-at-arms was assigned to George F. Warren, who had a prescriptive right to the office, having served in that capacity at every session of the Territorial Legislature since the advent of the Free-State party to power. Warren was an active, restless busybody, who conscientiously believed that the whole responsibility of any convention or Legislature that he was connected with was upon his shoulders, but he always discharged the duties of his position with great efficiency, and relieved the monotony of adjournments by the purchase of Territorial scrip at 40 per cent discount.

Werter R. Davis was the good-looking and able Chaplain of the Convention. His prayers were short and fervent, his Sunday sermons able and eloquent. He made himself a universal favorite by his pleasant demeanor, and great interest in the daily sessions, and we all confidently looked forward to the day when we could salute him as Bishop.

CHAIRMEN OF COMMITTEES

The organization was speedily completed by the prompt formation and announcement of the committees by President Winchell. The selection of Blunt, as chairman of the Committee on Militia, was such a happy coincidence that in the light of subsequent events it looks like inspiration, but it is hardly possible that Winchell could surmise that in a few short years he would be one of the most distinguished soldiers of the Republic.

Kingman was chairman of the Judiciary, and he was subsequently both Associate and Chief Justice of the Supreme Court; Thacher, the Legislature; Burris, the Schedule; Graham, the Corporation; Simpson, the Finance and Taxation; Ingalls, the Phraseology; Jas. Blood, the Ordinance; and Preston, the Apportionment.

LEADERS OF THOUGHT.

In such a body as this, composed of fifty-two active minds, every one of which was ambitious to have some thought or suggestion engrafted on the body of the organic law, there was an earnest struggle for leadership, and in such a contest the fierce winnowing fan soon separates the chaff from the grain, and first-class capacity goes straight to the front.

The discussion of questions wandered over a large range of inquiry, and embraced an unlimited variety of subjects, and while occasionally some one delegate showed his superiority on a question to which he had given thought and preparation, it was soon easily discerned that the leading and controlling men were Thacher and Kingman, on the Republican side, and Stinson and McDowell among the Democrats. Their familiarity with the

whole structure of fundamental law was enforced by the prompt and vigorous discussion of questions that would be suddenly ejected into the body of the debate in the shape of amendments to the reports of the committees that had in charge special parts of the instrument, and of which they could have no knowledge until they were offered by their authors as additions or substitutes to articles or sections. This brought into requisition their ready knowledge and wonderful comprehension, and was the severe test by which the leadership of the Convention was determined.

I know the treachery of memory, and the alternate "shine and glimmer" of recollection, and fearing that my early impression of the mental power of these men might have been the product of most personal friendly relations, and that I might have awarded them a prominence not justified, I have, since I commenced to write this sketch, carefully read the reported discussions of that body and reviewed its scenes, incidents and labors; and having done so, I am satisfied that I have accorded the leadership where it properly belonged.

At the same time it is due to others and to the truth of history to declare that Winchell, Ingalls, Slough, Blunt, Wrigley, Blood, Houston and Burris were among the leading men of the Convention, and greatly aided in giving expression to the most wise and beneficent provisions of the Constitution.

STINSON.

What a galaxy of bright minds there was in Leavenworth in the early days:—Stinson, Ewing, Parrott, Perry, McDowell, McCahon, Slough, and Gamble. I name only those that are gone. There is some good material left. Of all these, the most genial, magnetic, versatile and accomplished was Samuel A. Stinson. He was born in the good state of Maine, and if I mistake not, was a graduate of Bowdoin, the oldest and best endowed college in the state. He was tall, well formed, with a bright, fresh face—indeed, his complexion was as delicate as that of a woman—with hair struggling between shades of brown and light, a joyous disposition, pleasant smile, and most affable manners. He devoured books, rather than read them, his tenacious memory enabling him to call up their contents at will. His voice was clear and flute-like, with the most persuasive accents, and his wit sparkling and contagious. It was impossible to be in his presence and listen to his bright sallies without having all your brighter and better faculties started into action. He was a most graceful and fluent speaker, with a wealth of words and great power of oratorical amplification. His poise was perfect, and his gestures the most appropriate and graceful, with no "smell of the lamp," or strained effort, about his production; and yet they were exuberant, fervid, and rich. He was the Rufus Choate of the Kansas bar. He was the Democratic candidate for Associate Justice of the Supreme Court, under the constitution to the formation of which he contributed so much, but which he was finally prevailed on not to sign; was subsequently elected Attorney-General of the State, and as such conducted the impeachment cases against Secretary of State Robinson and Auditor of State Hilyer, being pitted against Governor Shannon and the Hon. Fred P. Stanton, both eminent lawyers, with long years of experience to aid them, and established national reputations to sustain them; and whatever may be the opinions of the men of those days as to the motives, merits and results of the impeachment cases, all must admit that the professional triumph of the trial was with Stinson. He was only twenty-six years old when a member of the convention. The gods loved him, and he

died at his old home in Wiscassett, Maine, on the 20th of February, 1866, aged thirty-three years.

MC DOWELL.

An entirely different type of man was his colleague from Leavenworth county, William C. McDowell. He was the son of a prominent lawyer and politician of Ohio, and was born at Hillsborough in that state, and educated to the bar. He was a strong, logical talker, trying always to submit every question to the purifying process of reason, but without the captivating graces of oratory that so distinguished Stinson. His speeches were studied efforts, carefully arranged, with copious citations, and numerous authorities. He was convivial and very pleasant in personal intercourse, and told stories and repeated witticisms with great effect. But the stories and wit were not of his own creation, for he was not an electro-motor like Stinson, who generated the most sparkling gems of thought and expression by both repulsion and attraction.

I never heard Stinson on the stump, but McDowell was one of the best talkers in that line in the Territory. I recollect a joint discussion between Marcus J. Parrott and McDowell at Paola, in the fall of 1859. Parrott was the Republican candidate for delegate to Congress, and the Democratic nominee was Sanders W. Johnston, who had been one of the Territorial judges, and a Free-State man, who was then practicing law in Leavenworth. For some reason he never met Parrott in debate. In the earlier stages of the canvass, Geo. W. Purkins, a somewhat celebrated lawyer of Leavenworth, essayed the task, but the qualities of the Parrott metal soon caused him to retire, and McDowell was thrown into the breach to try and save the Territory to the great National Democratic party, that was composed of the old Pro-Slavery and the Free-State Democrats, who fused on the organization of the Republican party in the Territory.

PARROTT.

Parrott was the most splendid declaimer in the Territory. He strung adjectives to adverbs and attached them to nouns with a fertility of arrangement and a variety of meaning and expression that was wonderful. He was to all intents and purposes a disciple of Buckle, and most of his public addresses were an amplification or a paraphrase of some texts of that most ingenious writer. Before an audience he was bright, captivating and earnest. He had been prominently associated with the Free-State cause, and had great personal popularity; but McDowell had an indescribable way of "putting things" to a crowd that was irresistible, and I thought his closing speech at that meeting was a most extraordinary effort; and I recollect well that he took the house by storm, although two-thirds of the audience were ardent supporters of Parrott. McDowell was elected Judge of the First District, at the election under the constitution, and died in 1867.

THOMAS EWING, JR.

Thomas Ewing, jr., did not possess the social qualities of either Stinson, McDowell or Parrott—he was more reserved and dignified; neither had he the ever-bubbling wit and the ready learning of Stinson, nor the eloquent recitative powers of Parrott; but he did possess the most sturdy, massive and comprehensive mind of any man that ever lived in the Territory. But it required great occasions and intense excitement to develop his qualities.

All who were present will recollect his wonderful exhibition of power in the discussion of the question of voting or non-voting under the Le-

compton Constitution, at Lawrence, in December, 1857. I heard him once under circumstances that I shall never forget. It was in Washington during the impeachment proceedings against Andrew Johnson. Both sides had arranged for a great popular demonstration in front of the Judiciary Square, and it happened that both meetings were called for the same evening, at the same place. The speakers' stands of the respective factions were almost within hearing distance of each other, and the friends of impeachment, and the adherents of Johnson, were only separated by a scattered line of metropolitan policemen. The excitement was intense, and great trouble was imminent. I never saw such feeling, or saw such emotion portrayed, even on the eve of a great battle. The crowd of highly-inflamed people that attended both meetings was simply immense. I recollect that a large number of Kansas people attended the impeachment meeting, with the old fighting Territorial blood surging through their veins, and the history of their State flitting through their heads, with chips on their shoulders, eager for some angry Johnsonite to knock them off. The impeachment speakers were moderate and conservative in tone to the last, when a radical member of Congress from Tennessee made one of the most personally offensive and savage attacks on Johnson that I ever heard from the lips of man. I think it was General Stokes. Both crowds had by that time become tired, and great numbers had left, but the excitement was so great that those managing the impeachment side thought best to dismiss their meeting.

I walked over to the other one, that was still in progress. Ewing was just beginning his speech, and his face and frame showed that he was swayed by the most intense excitement. The torches had burned low, and their dying and spasmodic flare threw a weird light over the scene. Ewing seemed to have expanded into colossal proportions, and with a face darkened by passion, and a voice that could be distinctly heard above all the noise and din of the crowd, was denouncing the leaders of impeachment, their plot to destroy the Government, their allies and abettors, the public sentiment that demanded the removal of Johnson, and predicting all kinds of disasters should the President be impeached.

I did not relish such talk, and I walked away from the scene with my old army commander, General Blunt. We proceeded several blocks before the silence was broken, and then Blunt said, in his slow, deliberate, and mournful way, "I never liked Ewing—I never thought he was sincere —but that is the most tragic and impassioned speech I ever heard." And it was. It has been a marvel to me ever since that he did not so inflame the Southern adherents of Johnson that night as to cause bloodshed.

SOLON O. THACHER ON FREEDOM.

The great speech of that convention was delivered by Judge Solon O. Thacher, of Douglas, in opposition to a resolution offered by Mr. McCune, of Leavenworth county, asking that "free negroes" be excluded from a residence in the State. From the circumstances attending the delivery, I do not believe that the effort was a premeditated one, for the cruel proposition was offered in the midst of the consideration of other questions, and without notice. After several others had spoken, and notably, Gen. John Ritchie, who had made a most earnest protest against it, Judge Thacher took the floor, and delivered the most scholastic, eloquent and unanswerable argument in opposition to it. That speech settled the question in favor of the absolute freedom of the Kansas soil to all colors and conditions in life. I am sorry to record the fact that the occasion demanded such a

splendid tribute to freedom, for the vote stood twenty-one for it, and twenty-six against it.

THE DEBATERS.

Kingman, Thacher, James Blood, Winchell, Blunt, Burris, Graham, Ingalls, Greer, Griffith, Hutchinson, Slough, Stinson, McDowell, Ritchie, Wrigley and Houston participated in all the general debates, Houston and Blunt doing perhaps more than their fair share of talking. The hard-fought questions were the establishment of the northern and western boundaries of the State, the exclusion of free negroes, the apportionment for members of the first State Legislature, and the homestead-exemption clause. Finally, when the constitution had been adopted as a whole, and was ready for signature, the Democrats refused to sign, principally because of the apportionment, for by the adoption of that all hope of the election of Democratic United States senators was gone. The justification for that apportionment scheme, that to the naked eye looked somewhat like "skullduggery"—a familiar expression in those days—was the fact that in the election for delegate to Congress, the Republicans had only about two thousand majority in the Territory; that the Free-State Democrats, and many who had never been Democrats, but were opposed to the negroes coming into the State, and the Pro-Slavery men, had formed a formidable and compact organization, and this, aided by all the power and patronage of the Federal Government, might control the organization of the State on our admission, and for this reason a most ordinary dictate of political action was observed by forming the Senatorial and Representative districts in such manner that the Republicans would be assured of a majority of the Legislature. It caused great feeling at the time, and the Democrats in and out of the convention howled like a Marshall county cyclone.

SUBSEQUENT BIOGRAPHY OF DELEGATES.

Of the members of the Convention, J. M. Arthur and Josiah Lamb, of Linn county, are both dead.

Wm. R. Griffith, of Bourbon, was elected Superintendent of Public Instruction at the first election under the Constitution he helped to form. He died at Topeka, on the 12th day of February, 1862. J. C. Burnett, of Bourbon, was elected to the last Territorial Legislature; was a member of the first State Senate; appointed register of the Fort Scott land office, and now lives in Russell county. Caleb May, of Atchison, now lives in Montgomery. Robert Graham, of Atchison county, is dead.

John J. Ingalls, of Atchison, is now the senior Senator from Kansas. He was the recognized scholar of the Convention, and authority on all questions connected with the arrangement and phraseology of the instrument. Whenever he suggested a verbal amendment it was adopted by consent. He was then in his twenty-sixth year, and was a comely youth to look upon. But I will venture the assertion that he would not wear at his daily attendance in the Senate such a hat as he wore during the sittings of that Convention! It was a cheap, broad-brimmed chip, with the crown shoved up until it assumed the shape of a cone, and then straws were taken out until there were more holes in the top than plaits of straw; and while time has effaced the other peculiar features of that wonderful tile, I do recollect that it was an ever-recurring subject of comment.

John T. Burris, of Johnson county, my room-mate, was a member of the last Territorial Legislature, and soon after the election of Lane and Pomeroy he was appointed United States District Attorney; resigned that place to serve in the army as Lieutenant-Colonel of the Tenth Regiment,

and mustered out at the expiration of its term of service. During the Price raid, in the fall of 1864, he served on the staff of Major General Blunt, as a volunteer aide, and he and I carried the field orders in all the various engagements. He was as gallant a soldier as ever wore a sword. After the war he was Speaker of the House of Representatives, and on the formation of the Tenth Judicial District was made Judge. He is now practicing law at Olathe.

Edmund G. Ross, of that convention, and afterwards United States Senator, (and as a member of the Legislature I voted for him), was another army comrade. He lost two horses at Little Blue. All through that day he was one of the coolest and bravest.

General Blunt, with a little army of 3,500, fought Price's whole force, while the Kansas militia and other troops were within hearing of our guns and wanted to come to us, but were held back by Curtis and Carney. Some day the history of that campaign will be written, and the credit given to James G. Blunt that is his; for he, and he alone, among all the generals, saved Kansas from ruin and devastation. Had it not been for him, brave Tom Moonlight, gallant Charley Blair and heroic Sam. Crawford would never have had an opportunity to fight for their State and their homes.

James Hanway of Franklin, Col. James Blood of Douglas, Luther R. Palmer of Pottawatomie, and John P. Greer of Shawnee, are still living in their respective localities, honored and respected citizens.

R. C. Foster, of Leavenworth, who was next to the youngest member, and with whom I served in the State Senate in 1867-8, is the attorney for the M. K. & T. Railway Company for Texas, and lives in Denison.

George H. Lillie lives at Eureka, Greenwood county, and is Probate Judge. I had the pleasure of spending an hour in his office last summer, and found him the same kind, generous friend as when we associated in the Convention and Territorial Legislature. Samuel Hipple and Wm. Perry are dead.

Every day when at home I see the genial face and good gray head of Wm. P. Dutton, of Lykins. Slough went to New Mexico; fought gallantly in the army, and was killed in an affray with an army officer, soon after the close of the war. The subsequent history and location of the others are unknown to me.

THE OMNIPRESENT INVESTIGATION.

I could never fathom what it was in the history or action of Kansas that has caused a cruel fate to decree that, at the close of every deliberative body held in the State there should be a disgraceful supplement in the shape of an investigating committee. The Constitutional Convention was no exception to the operation of this rule—abounding in shame, and giving birth, sustenance and employment to an infinite number of the flannel-mouthed whelps of that foul hag, Mrs. Candor, whose mendacious tongues and contentious lips caused more well-defined and specific stenches to arise than could be possibly manufactured in the city of Cologne. This particular disgrace was occasioned by the statement of a delegate from Doniphan, Mr. E. M. Hubbard, that Wm. Hutchinson, one of the delegates from Douglas county, had offered him a good lot if he would vote for Lawrence as the temporary capital of the State. On this statement becoming known to the members of the Convention, an investigating committee was ordered and appointed, and commenced its labors.

Hubbard swore to the truth of his statement; Hutchinson denied under oath. Hubbard then swore that the delegate from Douglas was a liar, and

the delegate from Douglas, being duly sworn, deposed that the delegate from Doniphan was "another." And thus ended the testimony. The committee reported the "facts" to the Convention, and the whole subject was "laid on the table"—the usual parliamentary resort when no one knew what else to do.

For nearly twenty years Kansas has lived and prospered under the shelter of the edifice reared by these men, with such changes and modifications as time and different circumstances have required. This lapse of years has been sufficient to demonstrate that the builders were endowed with a reasonable knowledge of the wants of the future. But if this is not so, for one thing they are justly entitled to the kind remembrance of the men of to-day; they limited the State indebtedness to such a sum that much of the financial prosperity of the State can be attributed to their wisdom and foresight respecting that limitation.

A new year is dawning. No one can foretell the evils that lurk in its shadows; but its sun will cast genial rays upon a million people—happy, prosperous, frugal, temperate, and duly observant of all the duties, obligations and requirements of the Wyandotte Convention.

After twenty years, PAOLA, January, 1881.

APPENDIX C-2.

THE WYANDOTTE CONSTITUTIONAL CONVENTION.

(Address delivered at a reunion of the surviving officers and members of the Wyandotte Constitutional Convention, held at Wyandotte, Kas., July 29, 1882. Reprinted from *"Addresses, by John A. Martin, delivered in Kansas. For private circulation."* The Wyandotte Constitutional Convention, pages 17-36.)

Mr. President: It is often charged that participants in assemblages of this character are apt to exaggerate the importance of the occasion they commemorate, and, after the manner of one of our poets, sing in chorus: "I celebrate myself." Perhaps I can speak of the Wyandotte Convention and its work without being accused of this self-gratulation; for I was more of an observer of its proceedings than a participant in them. I recorded what was done, but I had no part or lot in the doing. If its work had been crude or weak, I could not fairly have been held responsible for the failure. As it was strong, efficient and enduring, I can felicitate you, the survivors of those who wrought this great service for Kansas, without a suspicion of self-praise.

KANSAS CONSTITUTIONAL CONVENTIONS.

Four conventions framed Constitutions for this State. The first assembled at Topeka, on the 23rd of October, 1855, and adjourned on the 11th of November, after a session of twenty days. It was composed of forty-seven members, of whom thirty-one signed the Constitution. On the 15th of December this instrument was submitted to the people for ratification or rejection. Only 1,777 ballots were cast, all but 46 being favorable. One of its sections, a provision excluding negroes and mulattoes from the State, was submitted as an independent proposition, and adopted by an affirmative vote of 1,287, to 453 against it.

The second convention was that held at Lecompton, which met on the 7th of June, 1857, and after a session of four days, adjourned until the 19th of October, a final adjournment being reached on the 3d of November. It was composed of sixty-four members, forty-five of whom signed the organic law it framed, and its session continued twenty days. No direct vote on this Constitution was provided for. The schedule ordered two forms of ballots, one, the "Constitution with slavery," the other, "Constitution with no slavery." It was the old turkey-and-buzzard choice. The Free-State men refused to vote at the election, held on the 21st of December, and only 6,712 ballots were cast, 6,147 being for slavery, and 569 against slavery. The Free-State men had, however, elected a majority of the Territorial Legislature in October, and at a special session of that body, held in December, a law was passed providing for a direct vote on the Constitution. This election was held on the 4th of January, 1858, resulting: Against the Constitution, 10,266; for, 164—the Pro-Slavery men not voting. A third vote on the Lecompton instrument was taken August 2d, 1858, Congress having ordered its re-submission under the terms of the English bill. Again it was rejected, the ballots in its favor being only 1,788, and those against it, 11,300.

The Leavenworth Convention met at Minneola, March 23d, 1858, and at once adjourned to Leavenworth, where it reassembled March 25th. It

was composed of ninety-five members, was in session only eleven days, and the Constitution it framed was signed by eighty-three persons. This instrument was adopted at an election held May 11th, by a very small vote, the Pro-Slavery men taking no part in the contest. It was never a popular organic law, and many Free-State men who supported it did so under protest. An earnest effort was made, by the Republicans, to secure the admission of Kansas under the Topeka Constitution, and by the Democrats, with a few exceptions, to bring the Territory in under the Lecompton Constitution. But no serious or determined contest was waged, in Congress, for admission under the Leavenworth Constitution, and in less than eight months the movement in its behalf was formally abandoned.

THE WYANDOTTE CONVENTION.

Early in February, 1859, the Territorial Legislature passed an act submitting to the people the question of calling a Constitutional Convention. This vote was taken March 28th, and resulted: For, 5,306; against, 1,425. On the 10th of May, 1859, the Republican party of Kansas was organized, at Osawatomie, and at the election held on the 7th of June, for delegates to the Wyandotte Convention, the Republican and Democratic parties confronted each other in Kansas for the first time. The Democrats carried the counties of Leavenworth, Doniphan, Jefferson and Jackson, and elected one of the two delegates from Johnson. The Republicans were successful in all the other counties voting. The total vote polled was 14,000. The Republican membership was thirty-five; the Democratic, seventeen.

The Convention then chosen assembled on the 5th day of July, 1859. In its composition it was an unusual, not to say remarkable, Kansas assemblage. Apparently the chiefs of the contending parties had grown weary of constitution-making, or regarded this fourth endeavor in that line as a predestined failure, for they were conspicuous by their absence. In the Topeka Convention nearly every prominent man of the Free-State party had a seat. Gen. James H. Lane was its president, and Charles Robinson, Martin F. Conway, Marcus J. Parrott, Wm. Y. Roberts, Geo. W. Smith, Philip C. Schuyler, Cyrus K. Holliday, Mark W. Delahay, and many other recognized Free-State leaders were members. In the Leavenworth Convention there was a similar gathering of widely-known Free-State men. Conway was its president, and Lane, Roberts, Thos. Ewing, jr., Henry J. Adams, H. P. Johnson, Sam'l N. Wood, T. Dwight Thacher, Preston B. Plumb, Joel K. Goodin, A. Larzelere, W. F. M. Arny, Chas. H. Branscomb, John Ritchie, and many other influential Free-State chiefs or partisans, were among its members.

THE MEMBERSHIP.

In the Wyandotte Convention all the noted Free-State leaders were conspicuously absent. Its roll-call was made up of names generally new in Kansas affairs, and largely unknown in either the Free-State or Pro-Slavery councils. Its President, James M. Winchell, his colleague, Wm. McCullough, and John Ritchie, of Shawnee, had been members of the Leavenworth Convention; Col. Caleb May, of Atchison, and William R. Griffith, of Bourbon, had been members of both the Topeka and the Leavenworth Convention; and Jas. M. Arthur, of Linn had been a member of the Topeka Convention. But their prominence was largely local. On the Democratic side, too, appeared men before unnoted in the annals of the stirring and tremendous conflict that had for years made the young Territory the cynosure of a continent's interest. None of the prominent Pro-Slavery

men who sat in the Lecompton Convention or the Pro-Slavery Legislature —Calhoun, Stringfellow, Henderson, Elmore, Wilson, Carr and others— appeared in this body.

Perhaps the absence of these party leaders was a fortunate thing for the Convention and the incipient State. For in discriminating intelligence, in considerate zeal for the welfare of the people, in catholic grasp of principles, and in capacity for defining theories clearly and compactly, the members of this body were not wanting. On the other hand, there were fewer jealousies and far less wrangling than would have been possible had the envious and aspiring party leaders been present. I think it is certain that the work was better done, done with more sobriety, sincerity, prudence and real ability, than would have resulted had the recognized chiefs of the rival parties been on the floor of the Convention. The pioneers— the John Baptists—of the Free-State cause were all at Topeka, and the Constitution they framed is disfigured by some blotches and much useless verbiage. The leaders were all at Leavenworth, where they schemed for precedence, and spread traps to catch one another, and quarreled over non-essentials, and did everything but make a popular Constitution. Lecompton was the last expression of a beaten, desperate and wrong-headed, but intellectually vigorous faction, and was really, barring the mean method of its submission, and its attempt to perpetuate Slavery, an admirable organic law.

The younger men of the Territory constituted the Convention at Wyandotte. They came upon the field fresh, enthusiastic, and with a place in the world of thought and action to conquer. They recognized the fact that they must do extremely well to secure popular favor, and they set about their task with industry, intelligence and prudence. They were not martyrs or reformers, as many of those at Topeka were; nor jealous politicians or factionists, as most of those at Leavenworth were. They had no old battles to fight over again, no personal feuds to distract them, no recollection of former defeats or victories to reverse or maintain. They were their own prophets. They had had no experience in constitution-making, and hence did not look backward. They were not specialists. A few had hobbies, but the vast majority had no bees buzzing in their bonnets. A few were dogmatic, but the many were anxious to discuss, and willing to be convinced. A few were loquacious, but the majority were thinkers and workers. Some were accomplished scholars, but the majority were men of ordinary education, whose faculties had been sharpened and trained by the hard experience of an active and earnest life. Many were vigorous, direct, intelligent speakers; several were really eloquent; and a few may justly be ranked with the most versatile and brilliant men Kansas has ever numbered among her citizens.

Very few were old men. Only fifteen of the fifty-two members were over forty. Over one-third were under thirty, and nearly two-thirds under thirty-five. Very few, as I have said, had previously appeared as representatives of the people in any Territorial assemblage, and this was especially true of the men whose talents, industry and force soon approved them leaders. Samuel A. Kingman had been in the Territory only about eighteen months, and was unknown, outside of Brown county, until he appeared at Wyandotte. Solon O. Thacher was a young lawyer of Lawrence, never before prominent in public affairs. John J. Ingalls had served, the previous winter, as engrossing clerk of the Territorial Council. Samuel A. Stinson was a young attorney, recently from Maine. William C. McDowell had never been heard of outside of Leavenworth; Benjamin F.

Simpson was a boyish-looking lawyer from Miami county, and John T. Burris had been practicing, for a year or two, in Justices' courts in Johnson county. John P. Slough had been a member of the Ohio Legislature, but was a new-comer in Kansas; and Edmund G. Ross was the publisher of a weekly newspaper at Topeka.

One-half of the members had been in the Territory less than two years. Six came in 1854, four in 1855, and twelve in 1856, while Mr. Forman, of Doniphan, dated his residence from 1843; Mr. Palmer, of Pottawatomie, from 1854, and Mr. Houston, of Riley, from 1853. Forty-one were from Northern States, seven from South, and four were of foreign birth; England, Scotland, Ireland, and Germany each contributing one. It appears singular that only one of the Western States, Indiana, was represented in the membership, that State furnishing six delegates. Twelve hailed from New England; Ohio contributed twelve; Pennsylvania, six; and New York, four. Only eighteen belonged to the legal profession—an unusually small number of lawyers in such a body. Sixteen were farmers, eight merchants, three physicians, three manufacturers, one a mechanic, one a printer, one a land agent, and one a surveyor. The oldest member was Robert Graham, of Atchison, who was 55; the youngest, Benj. F. Simpson, of Lykins county (now Miami), who was 23.

A WORKING BODY.

It was a working body, from the first hour of its session until the last. There is a tradition that the Continental Congress which promulgated the Declaration of Independence was materially hastened in its deliberations over that immortal document by swarms of flies that invaded the hall where it sat, and made the life of its members a burden. Perhaps the intense heat of the rough-plastered room where the Convention met, or the knowledge that Territorial scrip would be received by importunate landlords only at a usurious discount, had something to do with urging dispatch in business. But certainly the Convention went to work with an energy and industry I have never seen paralleled in a Kansas deliberative body since that time. It perfected its organization, adopted rules for its government, discussed the best mode of procedure in framing a Constitution, and appointed a Committee to report upon that subject, during the first day's session; all the standing Committees were announced on the third day; and by the close of the fifth day it had disposed of two very troublesome contested election cases, decided that the Ohio constitution should be the model for that of Kansas, perfected arrangements for reporting and printing its debates, and instructed its committees upon a number of disputed questions The vote on selecting a model for the Constitution was, on the second ballot: for the Ohio constitution, 25 votes; Indiana, 23; and Kentucky, 1. So our Kansas Constitution was modeled after that of Ohio—something, I think, as the farmer's new house was designed after his old one; it was built upon the old site.

THE COMMITTEES.

The Chairmanships of the different Committees were assigned as follows: Preamble and Bill of Rights—Wm. Hutchinson, of Douglas County; Executive Department—John P. Greer, Shawnee; Legislative Department—Solon O. Thacher, Douglas; Judicial Department—Samuel A. Kingman, Brown; Military—James G. Blunt, Anderson; Electors and Elections—P. H. Townsend, Douglas; Schedule—John T. Burris, Johnson; Apportionment—H. D. Preston, Shawnee; Corporations and Banking—Robert Graham, Atchison; Education and Public Institutions—W. R. Griffith,

Bourbon; County and Township Organizations—John Ritchie, Topeka; Ordinance and Public Debt—James Blood, Douglas; Finance and Taxation—Benj. F. Simpson, Lykins; Amendments and Miscellaneous—S. D. Houston, Riley; Federal Relations—T. S. Wright, Nemaha; Phraseology and Arrangement—John J. Ingalls, Atchison.

I have studied the composition of these Committees with some interest, reviewing the work of their members in the Convention, and recalling their subsequent careers. And it appears to me that in making them up, President Winchell exhibited phenomenally quick and accurate judgment of men. He was, indeed, one of the best presiding officers I have ever known. His imperturbable coolness, never for an instant ruffled by the most sudden and passionate outbreaks of excitement in the Convention; his mastery of all the niceties of parliamentary law; his uniform courtesy and tact; his promptness and clearness in stating his decisions; and above all, the mingled grace and kindness and firmness with which he announced to an indignant member an adverse decision, were really wonderful. But what shall be said of that still more wonderful prescience with which he made up the Committees? What induced this calm, gray-eyed, observing little man, whose brass-buttoned blue coat was first seen by two-thirds of the Convention on the morning of the 5th of July—what impelled him, within twenty-four hours, to select an obscure, dull-looking, shock-headed country doctor as Chairman of the Military Committee, and thus name in connection with military affairs, for the first time, the only Kansas soldier who reached a full Major-Generalship? How did he happen to pass by half a dozen more widely-known lawyers, and appoint as Chairman of the Judiciary Committee a man who, during more than fifteen years thereafter, occupied a place on the Supreme Bench of the State, for the greater portion of this time as the Chief Justice? How came he to recognize so quickly, in the Engrossing Clerk of the Territorial Legislature, the ripest scholar and the fittest man in the body for the Chairmanship of the Committee to which every article of the Constitution was referred for final revision and amendment. In the youngest and most boyish-looking member, he found the man who was to form, for this State, a code of Finance and Taxation whose clear directions and wholesome restrictions have guarded Kansas against the wasteful extravagance of Legislatures and the curse of a burdensome public debt, during all the tempting and perilous affairs of its first quarter of a century. And he named as head of the Committee on Education, the first State Superintendent of Public Instruction. All of his appointments were made with rare judgment, but those mentioned appear notably discerning.

PROGRESS OF WORK.

On the sixth day a resolution favoring biennial sessions of the Legislature—adopted sixteen years afterward—was submitted and referred. The first of a long series of resolutions or proposed sections of the Constitution, prohibiting the settlement of negroes or mulattoes within the limits of the State, was also introduced. This question, with others of a kindred nature, such as propositions to prohibit colored children attending the schools, or to exclude them from the University, or to forbid the appropriation of any funds for their education, and last, and meanest of all, to deny to negroes the shelter of county poor-houses, when poor and helpless, was voted upon again and again, first in one form and then in another; and to the enduring honor of the majority, always defeated. It seems singular, in this day and generation, that such theories found persistent and earnest advocates. But it should be remembered that all this happened before the war, when

slavery was still an "institution" in nearly half the States of the Union. The Pro-Slavery party was, of course, solidly in favor of excluding free negroes from the State, and less than four years prior to the meeting of the Convention, the Free-State party, in voting on the Topeka Constitution, had given a decided majority in favor of such exclusion. It therefore required genuine courage and principle to go upon record against each and every proposition of this character. For very few members who so voted felt absolutely certain of the indorsement of their constituents.

The first article of the Constitution reported, that on corporations and banks, was submitted on the sixth day and considered. It was stated by the President that many other Committees had their reports in the hands of the printer, and during the next few days they began to come in very rapidly. The Convention, to expedite work, adopted a resolution requiring all committees to report on or before Saturday, the eleventh day of the session.

THE BOUNDARIES OF THE STATE.

On the seventh day, the annexation of that portion of Nebraska lying south of the Platte river, was formally considered. The then organized Nebraska counties included in that section of our sister state had elected delegates to the Convention, who were present earnestly advocating annexation. This proposition was discussed during several days, and the debate took a wide range. The Nebraska delegates were admitted to seats as honorary members, with the privilege of speaking on this subject. The final determination, however, was to preserve the original northern line. Two influences induced this decision, one political, and the other local and material. Many Republicans feared that the South Platte country was, or would be likely to become, Democratic. Lawrence and Topeka both aspired to be the State capital, and their influence was against annexation, because they feared it would throw the center of population far north of the Kaw.

The Preamble and Bill of Rights was reported on the tenth day, and opened the whole question of the State's boundaries. The committee proposed the twenty-third meridian as the western line, and the fortieth parallel as the line on the north. This would have excluded about ninety miles of territory within the present limits of the State. The committee's recommendation was, however, adopted, and stood as the determination of the Convention until the day before the final adjournment, when Colonel May, of Atchison, secured a reconsideration, and on his motion the twenty-fifth meridian was substituted for the twenty-third. The northern boundary question was finally settled on the fifteenth day, when, by a vote of 19 ayes and 29 nays, the Convention refused to memorialize Congress to include the South Platte country within the limits of Kansas.

FEATURES OF THE CONSTITUTION.

On the seventh day the Legislative and Judicial Committees reported. The Legislative article was considered next day. The Committee proposed that bills might originate in either house, but Mr. Winchell submitted a novel amendment, which required all laws to originate in the House of Representatives. This was adopted, notwithstanding the vigorous opposition of Mr. Thacher, the chairman of the committee, by a vote of 37 to 13. It survived the admission of the State only three years, being amended in 1864.

On the eighth day the Militia article was adopted; on the ninth day the Judicial article was perfected, and the article on Education and Public

Institutions reported and discussed; and on the tenth day the Committees on County and Township Organizations and Schedule, reported. The deathless pertinacity of a "claim" is illustrated by a petition presented that day, from one Samuel A. Lowe, a clerk of the so-called "Bogus Legislature," who wanted pay for certain work he alleged he had performed. Only a year ago, Mr. Lowe presented the same claim to Congress, and it was, I believe, allowed by the House. But the Kansas senators made such determined war on it that Mr. Lowe can still sing, "A claim to keep I have."

I have mentioned the fact that Mr. Winchell was the author of the section, providing that all bills should originate in the House. It should be stated that Mr. Ingalls was the author of the provision that "in actions for libel, the truth may be given in evidence to the jury, and if it shall appear that the alleged libelous matter was published for justifiable ends, the accused shall be acquitted." Another original provision of the Constitution is the Homestead section. This was first proposed by Mr. Foster, of Leavenworth county, on the sixth day of the session, and reported by the Committee on Miscellaneous and Amendments, on the thirteenth day. No other feature of the Constitution, perhaps, elicited more animated and earnest debate. It was discussed for several days; amended, referred, and again submitted. As originally reported, it provided for the exemption of "a homestead of 160 acres of land, or a house and lot not exceeding $2.000 in value, or real, personal and mixed property not exceeding $2,000 to any family." This was adopted by a vote of 28 ayes to 16 nays. Two days later the vote was reconsidered, and President Winchell proposed the wording finally adopted: "A homestead of 160 acres of farming land, or of one acre within the limits of an incorporated town or city, occupied as a residence by the family of the owner, together with all the improvements on the same, shall be exempted from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife, where the relation exists." Thus perfected, it was adopted by a vote of 33 to 7.

I thought at the time, however, and a review of the proceedings and debates has confirmed my impression, that favorable action on this provision was due to the earnest and eloquent advocacy of Judge Kingman, who was its most zealous, logical and courageous supporter. The homestead clause of the Kansas Constitution has been severely criticized, but I believe the people of the State generally regard it as a most beneficent provision of their organic law. For nearly a quarter of a century it has been maintained, and it still stands, as Judge Kingman said it would, guarding "the home, the hearthstone, the fireside around which a man may gather his family with the certainty of assurance that neither the hand of the law, nor any nor all of the uncertainties of life, can eject them from the possession of it."

The Finance and Taxation and the Executive articles were adopted on the fourteenth day, and the Miscellaneous article considered. This originally provided for the election of a Public Printer, but that section was stricken out, after a vigorous protest by Messrs. Ross and Ingalls. Nine years later their idea was indorsed by the adoption of an amendment creating the office of State Printer.

On the seventeenth day the temporary capital was located at Topeka, the second ballot resulting: For Topeka, 29; for Lawrence, 14; for Atchison, 6.

THE FIRST "PROHIBITION AMENDMENT."

On the same day a proposition was made by Mr. Preston, of Shawnee county, to amend the Miscellaneous article by adding the following section:

"SEC. —. The Legislature shall have power to regulate or prohibit the sale of alcoholic liquors, except for mechanical and medicinal purposes."

A motion made to lay this amendment on the table, was defeated by a vote of 18 ayes and 31 nays. But the anxiety of the members to exclude from the Constitution any provision that might render its adoption doubtful, or prevent the admission of the State, finally prevailed, and after a full interchange of views, Mr. Preston withdrew his amendment. There is, it is said, nothing new under the sun. Those who imagine that the prohibition amendment adopted in 1880 was a new departure in constitution making, have never examined the records of the Wyandotte Convention.

THE LAST OF SLAVERY IN KANSAS.

On the nineteenth day occurred the last struggle over the slavery question in Kansas. Section 6 of the Bill of Rights, prohibiting slavery or involuntary servitude, came up for adoption, and it was moved to add a proviso suspending the operation of this section for the period of twelve months after the admission of the State. This proviso received eleven votes, and twenty-eight were recorded against it. A most exciting discussion occurred, on the same day, over the apportionment article, which the Democrats denounced as a "gerrymander."

THE LAST DAYS.

The work of the Convention was practically completed on the twenty-first day. The various articles had each been considered and adopted, first in committee of the whole, then in Convention, then referred to the Committee on Phraseology and Arrangement, and, after report of that committee, again considered by sections and adopted. But so anxious were the members that every word used should be the right word, expressing the idea intended most clearly and directly, that when the reading of the completed Constitution was finished, on the morning of the 21st day, it was decided to refer it to a special committee, consisting of Messrs. Ingalls, Winchell, Ross and Slough, for further revision and verification. This committee reported the same afternoon, and again the Constitution was read by sections, for final revision, with the same painstaking carefulness and attention to the minutest details. All that afternoon, and all the next day, with brief interruptions for action on other closing work, this revision went on, and it was five o'clock in the afternoon of the 29th before the last section was perfected. Then occurred one of the most dramatic scenes of the Convention. Mr. Hutchinson submitted a resolution declaring that "we do now adopt and proceed to sign the Constitution."

A SPIRITED DEBATE.

At once Mr. Slough addressed the Chair, and after warmly eulogizing the general features of the Constitution, pronouncing it "a model instrument," he formally announced that political objections impelled himself and his Democratic associates to decline attaching their signatures to it. These objections he stated at length. They were, briefly: The curtailment of the boundaries of the State; the large legislative body provided for; the exclusion of Indians made citizens of the United States, from the privilege of voting; the registry of voters at the election on the Constitution; the refusal to exclude free negroes from the State; and the apportionment.

This action of the Democratic members had been foreshadowed for several days, but it was, nevertheless, something of a surprise. The Republicans understood that several of the Democrats had earnestly opposed such a course, and hoped that some of them would be governed by their own convictions, rather than by the mandate of their caucus. For a few moments after Mr. Slough concluded, the Convention sat, hushed and expectant. But no other Democratic member rose. It was evident that the caucus ruled. Then Judge Thacher, president *pro tem.*, addressed the chair, and in a speech of remarkable vigor and eloquence, accepted the gauge of battle thrown down. "Upon this Constitution," he declared, "we will meet our opponents in the popular arena. It is a better, a nobler issue than even the old Free-State issue. They have thrown down the gauntlet; we joyfully take it up." He then proceeded to defend, with great earnestness and power, the features of the Constitution objected to by Mr. Slough. "The members of the Convention," he asserted, "have perfected a work that will be enduring." The Constitution, he affirmed, would "commend itself to the true and good everywhere, because through every line and syllable there glows the generous sunshine of liberty." It was and should be, he declared:

> "Like some tall cliff, that lifts its awful form,
> Swells from the vale, and midway leaves the storm;
> Though round its breast the rolling clouds shall spread,
> Eternal sunshine settles on its head."

Read in the light of subsequent history, these declarations appear almost prophetic.

SIGNING THE CONSTITUTION.

The twilight shadows were gathering about Wyandotte when this debate closed, and the Convention proceeded to vote on Mr. Hutchinson's resolution, which was adopted by 34 ayes to 13 nays—one Republican and four Democrats being absent. The roll was then called, and the Constitution was signed by all the Republican members except one, Mr. Wright, of Nemaha, who was absent, sick. The work of the Convention was completed, and after voting thanks to its officers, it adjourned without date.

TWO MISTAKES.

Each party, I think, was guilty of one blunder it afterwards seriously regretted—the Republicans in refusing to include the South Platte country within the boundaries of Kansas; the Democrats in refusing to sign the Constitution they had labored diligently to perfect. I speak of what I consider the great mistake of the Republicans with all the more frankness, because I was at the time in hearty sympathy with their action; but I feel confident that no Republican member is living to-day who does not deplore that decision. And I am equally confident that within a brief time after the Convention adjourned, there were few Democratic members who did not seriously regret their refusal to sign the Constitution.

"ADDED TO THE STARS."

On the 4th of October, 1859, the Constitution was submitted to the people for ratification or rejection, and, for the first time in the history of Kansas, all parties cast a full, free and unintimidated vote. The Republicans favored, and the Democrats generally opposed its adoption. Nearly 16,000 ballots were polled, of which 10,421 were for, and 5,530 against the Constitution. The Homestead clause, submitted as an independent proposition, was ratified by a vote of 8,788 for, to 4,772 against it. Every county

in the Territory except two, Johnson and Morris, gave a majority for the Constitution.

Two months later, December 6th, state and county officers and members of the legislature were elected, and the people of Kansas, having exhausted their authority in state-building, patiently awaited the action of Congress. On the 11th of April, 1860, the House of Representatives voted, 134 to 73, to admit Kansas as a state, under the Wyandotte Constitution. Twice, during the next eight months, the Senate defeated motions to consider the Kansas bill, but on the 21st of January, 1861, several Southern senators having seceded, Mr. Seward "took a pinch of snuff" and called it up again. It passed by a vote of 36 to 16, and on the 29th of the same month President Buchanan approved it. Thus young Kansas, through many difficulties and turmoils, was "added to the Stars."

AN ENDURING CONSTITUTION.

During nearly twenty-two of the most eventful and exciting years of American history, the Constitution thus framed and ratified has defined the powers and regulated the duties of the government of Kansas. Three Legislatures have voted down propositions to call a new Constitutional convention. Twelve or fifteen amendments have been submitted, but only eight have been approved by the people. Finally, in 1880, the legislature voted to submit a proposal for a new convention, and at the regular election held in November of that year, this ballot was taken. The result was an indorsement of the old Wyandotte Constitution by a majority far more emphatic and overwhelming than that by which it was originally adopted, the vote standing 22,870 for, and 146,279 against the proposed convention, or nearly seven to one.

It is doubtful whether the organic law of any other state in the Union has more successfully survived the mutations of time and inconstant public sentiment, and the no less fluctuating necessities of a swiftly-developing commonwealth. Of its seventeen articles, only four, and of its one hundred and seventy-eight sections, only eight, have ever been amended. And of the eight amendments adopted, only five have revoked or modified the principles or policy originally formulated, the others being changes demanded by the growth of the State, or by the events of the Civil War. The first amendment, ratified in 1861, provides that no banking institution shall issue circulating notes of a less denomination than $1—the original limitation being $5. In 1864 the provision requiring all bills to originate in the House of Representatives, was repealed; and a section intended to prevent U. S. soldiers from voting, but which was so worded that it deprived our volunteers of that right, was also repealed. In 1867 an amendment was adopted disfranchising all persons who aided the "Lost Cause," or who were dishonorably discharged from the army of the United States, or who had defrauded the United States or any state during the war. In 1868 the State Printer amendment was ratified. In 1873 the number of senators and representatives, originally limited to 33 and 100, respectively, was increased to 40 and 125. In 1875 three propositions, each having in view biennial instead of annual sessions of the legislature, were adopted. And in 1880 the Prohibition amendment was ratified. These are all the changes that have been made in our organic law during nearly a quarter of a century.

PARTING AT WYANDOTTE.

It would violate the proprieties of such an occasion to comment on the personal feuds or partisan broils which once or twice marred the general

harmony and orderly progress of the proceedings. These were very few, indeed, and none of them, I think, outlasted the Convention. The members parted, when the final adjournment came, with mutual respect and good-will, and the friendships formed during the session have been unusually warm and enduring.

SUBSEQUENT HISTORY.

It seems fitting that, in concluding this sketch of the Convention and its labors, I should briefly narrate the subsequent history of its members. It was a small company, that which parted here twenty-three years ago to-day, and it was made up, as I have said, largely of young and vigorous men. But when this reunion was first suggested, and I came to look over the familiar names, I had so often called during the long, hot days of that far-away July, it was painful to note the havoc death had made. It impressed me something as did a roll-call I once witnessed, in the red glare of bivouac fires after one of the great battles of the war, when surviving comrades answered "killed," or "wounded," to one-half the names of a regiment. Ten of the fifty-two members composing the Convention I have not heard of for many years. Of the remaining forty-two, twenty rest quietly in

". . . The reconciling grave,
Where all alike lie down in peace together."

The largest delegation was that from Leavenworth county, and only one of the ten gentlemen comprising it, R. Cole Foster, certainly survives. Rare Sam Stinson, whose genial wit and brilliant accomplishments won all hearts, was elected Attorney-General in 1861, by a unanimous vote, and died in his old Maine home in February, 1866. William C. McDowell was chosen Judge of the First Judicial District at the first election under the Constitution, served four years, and was killed by a fall from an omnibus in St. Louis, July 16, 1866. John P. Slough removed to Colorado, was Colonel of a regiment raised in that State, and later a Brigadier-General; was appointed, after the war, Chief Justice of New Mexico, and was killed at Santa Fé. Samuel Hipple removed to Atchison county; served as Quartermaster during the war; was elected State Senator in 1867, and died in January, 1876. William Perry removed to Colorado, where he died. Paschal S. Parks returned to Indiana, and engaged in journalism and the law until his death, three years ago. Fred. Brown died in St. Joseph, Mo., and John Wright at his home in Leavenworth county. Robert Graham, of Atchison county, the oldest member, died in 1868. Three of the five members from Doniphan county, Robert J. Porter, Benjamin Wrigley and John Stiarwalt, are dead. The members from Linn, James M. Arthur and Josiah Lamb, are both dead, as are also N. C. Blood and P. H. Townsend, of Douglas; H. D. Preston, of Shawnee; Allen Crocker, of Woodson, and T. S. Wright, of Nemaha. W. R. Griffith, of Bourbon, was elected the first State Superintendent of Public Instruction, and died February 12, 1862, before the completion of his term. James G. Blunt, of Anderson, who became a Major-General during the war, and won renoun as a brave and skillful soldier, died, in Washington, a year or more ago. James Hanway, of Franklin, after a long life of usefulness, died at his old home only a brief while ago. President James M. Winchell returned to New York shortly after the outbreak of the Rebellion, and resumed his connection with the *Times*, first as war correspondent, and afterwards as an editorial writer. Until his death, a few years since, he was employed upon that great journal.

SURVIVING MEMBERS.

Of the surviving members, many have attained the highest distinction of the State, and all, I believe, are useful and honored citizens. At the first election under the Constitution, Samuel A. Kingman was chosen as Associate Justice of the Supreme Court; in 1866 he was elected Chief Justice, and reëlected in 1872. Benj. F. Simpson was elected the first Attorney-General of the State, but resigned the position to enter the army, in which he served throughout the war. He has since been Speaker of the House of Representatives, several times a State Senator, and is now serving his second term as U. S. Marshal. Solon O. Thacher was chosen District Judge at the first election under the Constitution, has since occupied many positions of honor and responsibility, and is a member of the present State Senate. J. C. Burnett, S. D. Houston and Sam'l E. Hoffman were members of the first State Senate, and Geo. H. Lillie was a member of the first House of Representatives. E. G. Ross was appointed United States Senator in 1866, and elected in 1867, serving until 1871. John J. Ingalls was chosen a State Senator in 1861; was elected United States Senator in 1873, and reëlected in 1879, and is still occupying that distinguished place. John T. Burris was Lieutenant-Colonel of the Tenth Kansas, and subsequently District Judge. Wm. P. Dutton, James Blood, L. R. Palmer, John P. Greer and John Ritchie have filled many positions of local trust and prominence, with credit and usefulness. R. C. Foster and John W. Forman are residing in Texas; William Hutchinson lives in Washington; Ed. Stokes in Arkansas, and C. B. McClelland, E. Moore and E. M. Hubbard are still prominent and honored citizens of the counties they represented. My old friend, Col. Caleb May, sole surviving member of the three Free-State Constitutional Conventions, lives in Montgomery county. If Dean Swift was right in saying that "whoever could make two ears of corn, or two blades of grass, to grow on a spot of ground where one grew before, would deserve better of mankind, and do more essential service to his country, than the whole race of politicians," what honor is due this sturdy Kansas farmer, who, during a residence of twenty-eight years in the State, has never—not even in the disastrous seasons of 1860 and 1874—failed to raise a good crop. Even the heroic service he rendered the cause of Freedom during the darkest days of the struggle in Kansas, was less valuable to the State than this practical and triumphant vindication of its soil and climate.

"LOST TO SIGHT."

Stalwart, quiet Wm. McCullough I have not heard of for many years. John A. Middleton, of Marshall county, was a soldier in the Seventh Kansas, removed to Montana in 1864, and I have learned nothing of him since. R. L. Williams, of Douglas; A. D. McCune, of Leavenworth; J. H. Signor, of Allen, and J. T. Barton, of Johnson, have all disappeared and left no sign. I know not whether they are living or dead.

THE OFFICERS.

Of the officers of the Convention, queer old George Warren, Sergeant-at-Arms of nearly all the early Kansas Legislatures and Conventions, died many years ago. Ed. S. Nash, the Journal Clerk, was Adjutant of the first Kansas, and died some years since in Chicago. Robt. St. Clair Graham, one of the Enrolling Clerks, was elected Judge of the Second Judicial District in 1866, and died in 1880. Richard J. Hinton, also an Enrolling Clerk, is the editor of the Washington (D. C.) *Gazette*, and a widely known journalist. Werter R. Davis, the Chaplain, was a member of the first

State Legislature; was Chaplain of the Twelfth and Colonel of the Sixteenth Kansas regiments during the war, and is one of the most prominent clergymen of his denomination in the State. S. D. McDonald, printer to the Convention, is still engaged in journalism. J. M. Funk, the Doorkeeper, and J. I. Blanchard, the Assistant Secretary, I have not heard from or of for many years.

CONCLUSION.

I wish I could sketch more in detail the work and history of the members of the Convention. But this paper is, I know, already too long. I have tried to tell how our Constitution was made. I could not narrate, within reasonable limits,

> "What workman wrought its ribs of steel,
> Who made each mast, and sail, and rope,
> What anvils rang, what hammers beat,
> In what a forge and what a heat
> Were shaped the anchors of its hope."

It is enough to say that the work has proved strong and enduring. Through the groping inexperience of our State's childhood and the still more perilous ambitions of its youth, through the storm of civil war and the calm of prosperous peace, the Wyandotte Constitution has justified the confident hopes of its early friends. The most marvelous changes have been wrought in this country since it was framed. The huge brick building in which the Convention held its sessions, long ago crumbled and fell. The distracted, dependent and turbulent Territory has grown to be a peaceful, powerful and prosperous State. Its hundred thousand people have multiplied to a million. Upon its vast and solitary prairies, where then bloomed a wild and unprofitable vegetation, "wherewith the mower filleth not his hand, nor he that bindeth sheaves his bosom," miles of green meadows now glisten with morning dew, and thousands of golden wheatfields shimmer in the noonday sun, and millions of acres of tasseling corn, rustling in the sweet twilight air, tell of harvests so bountiful that they would feed a continent. Every quiet valley and prairie swell is dotted with pleasant homes, where happy children laugh and play and men and women go their busy ways in prosperous content. Eager learners throng eight thousand schoolhouses. Church bells ring in nearly every county from the Missouri to the Colorado line. More than four thousand miles of railway bind town and country, factory and farm and store, into one community. And over all the institutions and activities of this great, intelligent and orderly commonwealth, broods the genius and spirit of the Wyandotte Constitution. Under its ample authority and direction, just and generous laws have maintained the rights of citizenship, given protection to labor and property, stimulated enterprise, multiplied industries, opened to every child and youth the door of school and college, encouraged morality, fostered temperance, protected the weak, restrained the strong, and sternly punished outbreaking crime. And still the sunshine of popular confidence and favor falls upon the Constitution. It has outlived half of its framers, and when, a quarter of a century hence, the last surviving member of the Convention awaits the inevitable hour, the Wyandotte Constitution may yet be the chart and compass ordering and guiding the destinies of a state whose imperial manhood is foreshadowed by its stalwart and stately youth.

APPENDIX D.

THE SOURCES OF THE CONSTITUTION OF KANSAS.

(An address by Rosa M. Perdue, delivered before the Kansas State Historical Society, at its twenty-first annual meeting, held January 15, 1901. Reprinted by permission of the Society, from Vol. 7, Kansas Historical Collections, pages 130-151.)

Constitutional conventions in new states have always clung tenaciously to the general plan of the organic law of some model state. The three departments of government, with a system of checks and balances, are fundamental. The details of administration and new features have been added continually, as the experience of different states proved their necessity. The Western states have new provisions to meet new conditions, but they have in other respects followed the precedent of some older state. Each new state usually adopts the points tested in the constitutions of the preceding decade. The states of the North have mostly followed the precedent of New York, and those in the South have in the majority of cases taken the constitution of Virginia for a model.

It is the purpose of this paper to trace the sources of the Kansas constitution, formed by the convention at Wyandotte in July of 1859. As a preparation for this constitutional convention, the people of Kansas had learned several lessons from three earlier attempts at constitution making. The statement is frequently made that the Wyandotte constitution was formed upon the Topeka model. This is an entire mistake. Though the convention was guided in several particulars in local matters by the earlier constitutions, no one of them was adopted as a model. Only seven of the fifty-two members had been delegates to any earlier convention, and the majority were in favor of adopting a new plan.

The delegates met in Wyandotte July 5, 1859, and organized by electing James M. Winchell, president, and John A. Martin, secretary. The dependence of the convention upon precedent first developed in the discussion which arose between those who wished to administer an oath to all delegates and those who thought it necessary for officers only. The law providing for the organization of the convention was silent on this point. James G. Blunt stated that he had examined the precedents, and found that in some bodies of like character the oath had been administered and in others it had not. The question had been raised in the Ohio convention of 1851. There, too, the law had not required that an oath be administered to the entire membership, but they had finally agreed to take the oath to support the constitution of the United States and to faithfully perform their duties as members of the convention.

That nothing might be omitted that any other state had done to solemnize its proceedings, the convention adopted the plan and oath of Ohio, and Mr. Wm. L. McMath, a notary public of Wyandotte, was selected to administer it. The members, rising in their places, received the following: "You and each of you will support the constitution of the United States, and faithfully discharge your duties as members of this Convention." The officers then stood up and a similar oath was administered. This early adoption of the example of Ohio foreshadowed a later adoption of the constitution of that state as a model by which the constitution of Kansas should be drawn.

The members of the convention were organized in fifteen committees, each of which was to prepare a draft of provisions appropriate for a particular article of the constitution. In order that the drafts prepared by the committees might be harmonious, it was necessary to decide upon a common basis for action. This was difficult to do, on account of the varying nativity and experience of the delegates. The largest representation from any one state was the thirteen from Ohio. Seven were natives of Indiana, and five each of Kentucky and Pennsylvania. Four were from New York, three each were from New Jersey and Vermont, and two each from Massachusetts and Maine. Four members were foreigners, representing England, Ireland, Scotland and Germany. Five delegates had helped to form the Leavenworth constitution, and three had been members of the Topeka convention. Each group knowing the provision of its own constitution best, was in favor of adopting it as a model. During the debate, John P. Slough advocated the Leavenworth constitution, and William R. Griffith, being a native of Indiana, thought the constitution of that state would be the proper model.

Solon O. Thacher suggested the plan which was adopted. It provided that the roll of the convention be called, and that each member name the constitution which he preferred as a basis for the convention to act upon, and that if on this vote no one constitution received a majority the roll be called again, and that the members confine their responses to one of the three Constitutions having the highest number of votes. Upon the first ballot Ohio received thirteen votes; Indiana, twelve; and Kentucky, six. Five votes were cast for the Leavenworth and three for the Topeka constitution. Pennsylvania and Iowa each received two votes, and Massachusetts, Maine, Michigan, Minnesota and Oregon, one each. The number of votes for Ohio corresponds to the number of delegates native of that state. The number of votes for the Topeka and Leavenworth constitutions correspond, respectively, with the number of members who helped to form these constitutions. The seven members from Indiana and five from Kentucky were doubtless state loyal, and must have received votes from states having smaller delegations. The other votes bear no apparent relation to the members present from the respective states. On the second ballot, Ohio received twenty-five votes, Indiana twenty-three, and Kentucky one. The Ohio constitution, having received the majority of the votes cast, was made the basis for action, and copies of that constitution were printed and distributed to the members of the various committees.

Many other constitutions were in the hands of the delegates, and sections peculiarly adapted to conditions in Kansas were appropriated from them. Among the constitutions mostly drawn from were the Michigan constitution of 1850, the Iowa constitution of 1857, Wisconsin of 1848, Illinois of 1848, Indiana of 1851, Minnesota of 1857, New York of 1846, Pennsylvania of 1838, Kentucky of 1850, and the earlier Kansas constitutions, framed at Topeka, Lecompton and Leavenworth.

The reports of the committees, being completed at different times, were presented to the convention in irregular order. For that reason this paper will follow the arrangement of the completed document. The ordinance is first in order. No such instrument having been prefixed to the Ohio constitution of 1851, the committee on ordinance was without a definite precedent to follow in its deliberations. Robert Graham, a member of the committee, offered to the convention as an instruction to the committee on ordinance the proposition included in the "English bill," saying that it was "the same proposition as that made to the people of Kansas by the Democratic party in the event of the adoption of the Lecompton

constitution. If this convention should adopt the article, that party could not consistently oppose its provisions in the coming constitutional election."

Upon comparison, it is evident that the Lecompton ordinance and the English bill were the precedents followed. The enacting clause is that of the Lecompton constitution. Section 1 of the report of the committee was exactly section 1 of the English bill, but Mr. Winchell proposed a substitute stating the same provisions in better language, which was adopted. Section 2 is the first part of section 2 of the English bill, except that the manner of selecting the land is left to a provision in section 8. In section 3 the grant of land was extended from ten to thirteen sections, which was the amount provided in section 3 of the Leavenworth ordinance. The separate grant of seventy-two sections of land for the erection and maintenance of charitable and benevolent institutions is additional. Section 5, appropriating salt springs, with six sections of land adjacent thereto, is taken from section 4 of the English bill, though all the provisions of this section of that article were not adopted. Section 6, asking for five per centum of the proceeds of the sale of public lands, follows section 5 of the English bill, except that that document appropriates the income to internal improvement. The committee set it aside as a permanent fund, the income of which should be devoted to the support of the common schools. A suggestion of this idea is found in section 3 of the ordinance to the Leavenworth constitution. Section 7, appropriating the 500,000 acres of land granted to the new states by act of Congress September 14, 1841, to the support of the common schools, has precedent in the California constitution, article IX, section 2; in the constitution of Iowa, article IX, section 3, and most constitutions since the grant was made. Section 8, prescribing the manner in which the selection of such land should be made, was a part of section 2 of the English bill.

The next in order of the preliminary articles is the preamble. Mr. Hutchinson said, in explanation of the report of the committee, that the article was copied almost word for word from the preamble of the Massachusetts constitution, which had been composed by John Adams. This would have been of historic interest, at least, but the members of the Kansas convention discarded it in favor of a short enacting clause prepared by Samuel A. Stinson. In introducing this clause, he stated that it was the usual form of the constitutions which he had examined. He appears to have taken Minnesota for a model, and added a few words from Wisconsin or Iowa.

The preamble is followed by the bill of rights. With exception of an additional provision to section 6, and a few transpositions and changes in phraseology, the last nineteen provisions of the bill of rights are, section for section, modeled upon the Ohio precedent. The first section was the only one that led to an extended debate. It was an exact copy of the first section of the Leavenworth bill of rights. T. Dwight Thacher states that the section reported was copied from the Lecompton bill of rights, with slight changes in the phraseology made by the Leavenworth constitution, with the definite purpose of antagonizing the pro-slavery sentiment. Its introduction occasioned a violent debate. To pour oil upon the troubled waters, the first section of the Ohio bill of rights was twice introduced. The first time it was voted down, and the second declared out of order. Finally, Samuel A. Kingman proposed the following: "All men are possessed of equal and inalienable natural rights, among which are those of life, liberty, and the pursuit of happiness." He said that he "wished the purely American feeling to appear in this first section." These terms were already in the hearts of the people; they had become tradi-

tional. The declaration of independence and declaration of rights formed a part of the political creed from which no man could extricate himself. He loved the form in which old ideas were expressed. They were, in form as well as spirit, the political bible of every citizen. If you change the language, you mar its beauties. He had therefore selected a few words from these documents and molded them into a substitute that would show no man's prejudice and was broad enough for all to stand upon. In this form the section was adopted.

ARTICLE I.—*Executive.* Nineteen of the twenty sections of the Ohio article; three were preserved in the report of the committee on executive department, section 4 only being omitted and sections 1 and 2 being combined. A few changes were made in the report during the debate upon its adoption. To the list of officers enumerated in the first section the state superintendent of public instruction was added. The term of service for the auditor was changed to two years, to correspond with the term of service for other officers.

The provisions of section 2, respecting returns of elections, occasioned some discussion. Mr. Thacher did not approve the requirement that the returns be sent directly by the township officers, but proposed that an abstract of the returns of every election in each county be sent by the clerk of that county. Mr. Burris favored the plan of Iowa, which transmitted the returns to a county board, which sent them on to a state board. Mr. Thacher said that New York as well as Iowa sent the returns to a state board of commissioners, and that in his opinion, in Kansas, the secretary of state, the auditor and the attorney-general should constitute a board to canvass the returns and declare the result, instead of entrusting this to the president of the senate. A section, copied mostly from Iowa and New York, and embodying the propositions of Messrs. Thacher and Burris, was introduced. It was amended by requiring that the returns be directed to the secretary of state, who, in connection with the lieutenant-governor and attorney-general, was to constitute the board of canvassers for the state. The section was then approved by the convention.

The part of section 4 which provided for the execution of laws by the governor was transposed from section 4 to section 3. Sections 5 and 6 of the report, concerning the governor's message to the legislature and his power to call extra sessions, were combined for the present section 5. The provision that the governor shall be commander of the military and naval forces of the state was stricken from the report, with the intention of making a like provision in the legislative department. In lieu of section 9, defining the power of the governor to grant reprieves and pardons, a more concise statement containing the same provision was adopted. Sections 14 and 15 of the report, now sections 12 and 13 of the completed article, were changed by introducing the lieutenant-governor, to agree with the changes in section 1. In section 16, now section 18, ten days were substituted for the five days required in the Ohio constitution as the time before the regular sessions of the legislature in which the officers of the state institutions are to report to the governor.

It therefore follows that each provision of the Ohio article on executive department, except sections 4 and 10, is now embraced in the Kansas article. Many of the sections are now transferred to different positions, but a careful comparison will discover all.

ARTICLE II.—*Legislative.* The committee on legislative department made an effort to follow the Ohio precedent, but Mr. Thacher, its chairman, having been a member of the legislature of New York, knew many

good provisions in the constitution of that state which he incorporated in the report.

Section 1 of the report of the committee, "The legislative powers of this state shall be vested in a senate and assembly," was word for word section 1 of the New York article. It was amended by changing the last phrase to read, "in a house of representatives and senate." The word "assembly," characteristic of the constitution of New York, was used throughout the report of the committee. The members of the convention preferred the term "house of representatives," and ordered, as an amendment, that it should be substituted in all places where the word "assembly" had been used.

The provisions of section 2 occasioned a debate, most of which was devoted to a comparison and defense of precedents which members found in different constitutions. The term for senators, two years, and for representatives, one year, and the division of the state into senatorial and representative districts, were copied from the New York constitution. But the number of senators and representatives provided for the first session of the legislature was determined by the committee on apportionment. It was their purpose to give to each county at least one representative. Mr. Slough, for the sake of economy in so young a state, wished to reduce the number of representatives from seventy-five to fifty. Pascal S. Parks observed that an examination of the constitutions of other states had shown that, on first organization, Indiana had had ten senators and twenty-five representatives, Missouri fifteen senators and thirty representatives, and Ohio fifteen senators and thirty representatives. He thought that, in proportion to the size of the states, seventy-five representatives would be more satisfactory to Kansas. William C. McDowell thought this expense unnecessary. "The great state of Ohio, only ten years ago, with a population of over a million, had no larger representation than the committee proposed to give the 70,000 inhabitants of Kansas; population, not counties, should be the basis for representation." J. C. Burnett silenced opposition by citing the precedent of Maine, with 300 or 400 members in her legislature, and Massachusetts, with 500 or 600, and asserted that the comparative size of the states would show seventy-five members for her house of representatives to be economy in the state of Kansas. The precedents of the constitutions of New York and Pennsylvania were urged in favor of adding to section 2 a provision guaranteeing to each county at least one representative in all subsequent elections. J. T. Barton proposed to strike out the provision for twenty-five senators and insert twenty, and urged the example of Illinois in support of the proposition. Mr. Thacher explained that, as the report stood, the senators and representatives were apportioned in the ratio of one to three. To adopt the change would destroy the proportion, and twenty-five was certainly not too many senators to represent the people.

The term of office for a representative, reported by the committee, was one year, as in New York especially, and in several other states. In defense of the one-year term, and annual sessions of the legislature, Mr. Blunt asserted that Indiana and Ohio had in their earlier constitutions the one-year term, and, since having changed to two years, were contemplating a change back again. If biennial sessions were unsatisfactory in an old-settled state, they would be disastrous to a new state, like Kansas. Mr. Burris disagreed; he remembered distinctly the annual sessions in Kentucky, under the old constitution. Some twenty years since, Kentucky provided in her new constitution that the legislature should meet only once

in two years, and the people were satisfied with the results. He also knew that, only two years before, in the state of Iowa, the people, in their constitutional convention, voted to continue the biennial sessions provided in their old constitution. A vote in the convention decided in favor of the one-year term and annual sessions of the legislature. The amendment to the section was ratified in 1875.

John James Ingalls proposed that the third section, fixing the salary and mileage allowed to members of the legislature, be stricken from the report, as superfluous. Mr. Thacher explained that the committee had found it customary in other constitutions, especially New York, Wisconsin, Iowa and Kentucky, to fix the per diem and mileage of members of the legislature. It was too great a temptation for members to be called upon to fix their own compensation.

Section 4, describing the qualifications of members of the legislature, is from section 6, article IV, of the Wisconsin constitution. Its wording expressed the idea more clearly than any section of the Ohio constitution.

Section 5, disqualifying members of the legislature for holding office under the government of the United States, is from section 3, article III, of the New York constitution. It is found also in section 13, article IV, of the Wisconsin, and in less definite terms in the constitutions of several [other] states.

The original section 6, guarding against embezzlement and misuse of public funds, was taken from the Ohio constitution, but it was so amended as to reduce it to its present form.

The oath of office prescribed for all officers of the state was, *verbatim,* section 28, article IV, of the Wisconsin constitution. A slight change was made to improve the wording of the first line, and the last phrase was stricken out in the committee of the whole.

Sections 8, 9, 10, and 11, prescribing the methods of organization and proceedings in the houses, and making provision for filling vacancies, and keeping a journal, follow the Ohio precedent, and are almost universal provisions of the constitutions of other states.

The report of the committee followed the time-honored precedent of all earlier constitutions by allowing bills to originate in either house, subject to revision and rejection by the other. But Mr. Winchell submitted, as a substitute: "All bills shall originate in the house of representatives, and be subject to amendment or rejection by the senate." He stated that the arguments used in favor of originating revenue bills in the house applied equally to all other bills. No precedent was found for such a mode of procedure, and some members thought it dangerous to try the experiment. However, a vote of the convention sustained the substitute, and the section stood in this form until amended November 8, 1864. The majority necessary to pass a bill or joint resolution, as provided in section 13, was adopted from the Ohio constitution, section 9, article II. It has further precedent in the New York constitution, section 15, article III.

Section 14, granting a limited veto to the governor, was modeled upon section 9, article IV, of the New York constitution. Mr. Blunt, Mr. McDowell and others wished the section stricken from the report. Mr. Blunt thought it possible to impose checks enough upon legislation without giving the governor any part in it, and urged that the constitution of Ohio, adopted as a basis for action, contained no veto clause. He believed the history of that state for the last ten years had proved the wisdom of the omission. Other members referred to recent beneficial results of the use of the veto power in Indiana, and showed by President Jackson's veto of

the bank-charter bill that the veto in the hands of the executive is not final unless supported upon ultimate appeal to the people. Besides the model in the New York constitution, the provision for the veto power is found in the California constitution, section 17, article IV; the Iowa constitution, section 16, article III; the Indiana constitution, section 14, article V, and in several others. The large array of precedents led to the adoption of the provision.

Sections 15 and 16 are evidently modeled upon section 15 of the Ohio article II. Two-thirds majority is substituted for the three-fourths required that constitution to suspend the rule for reading bills upon three separate days. A provision is also inserted prohibiting the omission of reading a bill by sections on its final passage; otherwise the sections are identical.

For section 17, the committee had reported section 15, article IV, of the Topeka constitution. Upon motion of Benjamin Wrigley, section 26, article II, of the Ohio constitution, was prefixed, so that the entire section should read: "All laws of a general nature shall have a uniform operation throughout the state."

Section 18 of the report was original with the committee. It was a group of prohibitions upon the legislative power. By amendment in the convention and in the committee on phraseology, all were discarded except the denial of the power of the legislature to grant divorces. The converse of the restriction was preserved: "All power to grant divorces is vested in the district court, subject to regulation by law." C. B. McClelland, a surviving member of the committee, states, in a letter to the writer, that under the territorial government the legislature had granted divorces. The committee thought it best to transfer this work to the courts. The substance of the section finally adopted is almost universal in other constitutions, but the phraseology is original.

The provisions found in section 19 were combined by the committee from sections 17 and 18 of the Topeka article and sections 16 and 17 of the Leavenworth article on legislative department. Mr. Wrigley proposed to so amend the first part as to read: "The legislature shall prescribe the time when its acts shall be in force and authorize the speedy publication of the same." Mr. Stinson added: "And no law of a general nature shall be in force until the same be published." Both amendments were approved. Under the territorial government, laws of which the people had had no notice had frequently been in force. The purpose of the section was to correct this difficulty.

The enacting clause for bills as reported was, *verbatim*, that of the New York constitution, but was changed by amendment to its present form.

Section 21, conferring upon local tribunals the right to transact the county business, is, word for word, section 17, article III, of the New York constitution. It has another precedent in section 22, article IV, of the Wisconsin constitution.

The constitution of Ohio has a provision protecting the members of the legislature from arrest, but section 9, article IV, of the Oregon constitution, was adopted in its stead, on account of its additional provisions. The exemption from arrest for treason was stricken out, the last clause was transposed to the first part of the section, and fifteen days were substituted for thirteen, the time before a session in which a member is exempt from civil process. With these changes the section was adopted.

The committee had taken section 23, providing for a state printer, from the Wisconsin constitution, but members of the convention thought such

business should be left to the judgment of the legislature, and voted to strike out the provision.

Mr. Thacher, always ready to improve the station of women, moved, as a substitute: "The legislature, in providing for the formation and regulation of common schools, shall make no distinction between the rights and privileges of males and females." In advocating this section, he stated that "The committee had considered such a provision just and humane, and that a similar provision was in the constitution of Kentucky." A diligent search fails to reveal any such provision in any of the three constitutions of Kentucky that could be called similar to the one introduced by Mr. Thacher. This is only one of many imaginary precedents cited during the convention.

Section 24, prescribing the mode of making appropriations, is, word for word, section 22, article II, of the Ohio constitution, except that the time is changed to one year, to correspond with the annual sessions of the legislature.

Section 25, specifying the time and place for the regular meetings of the legislature, is section 25, article IV, of the Topeka constitution, except that the time appointed is one week later in January.

The provision for an enumeration of the inhabitants of the state every ten years is common to the Topeka and Leavenworth constitutions, and to nearly all state constitutions. The date for the first enumeration was fixed in 1865, so that the dates for taking the state and national census would come alternately, giving the state the benefit of an enumeration every five years.

Mr. Thacher stated that the section on impeachment was copied *verbatim* from the New York constitution. Some changes were made during the debate which made the present section nearly identical with section 23, article II, of the Ohio constitution. The further specifications, concerning officers liable to impeachment and punishment allowed, is section 24, article II, of the Ohio constitution.

It then appears that the provisions of the entire article are about equally divided between the constitutions of Ohio, New York, and Wisconsin, with a few sections each from the Topeka and Leavenworth constitutions.

ARTICLE III.—*Judiciary*. It is peculiarly difficult to discover the sources of the provisions of the judicial department. The report was prepared by a committee of ten lawyers, who used earlier constitutions as guides in a general way, but drew upon their own ideas for details. The phraseology of sections based upon precedent is so changed as to retain little trace of the original. With the exception of the section fixing the salary of judges, the report was adopted almost without debate; thus few references were made to precedents followed by the committee. Samuel A. Kingman stated, in a letter to the writer, that the committee on judiciary had before it the constitution of Ohio, but did not feel compelled to follow it. Judge Burris, another surviving member, stated to the writer "that the committee did examine, discuss, criticize and to a certain extent draw from the constitutions of Ohio, Indiana, Kentucky, Iowa, Massachusetts, New York, Pennsylvania, and Michigan, besides several others, but followed that of Ohio more closely than any other."

The first section, vesting the judicial power in a series of courts, is modeled upon the first section of the Ohio constitution. These are two points of difference. The court of common pleas is omitted, so that the

courts remaining correspond with those of the territorial government, and a provision for a seal is added.

Section 2, specifying the number of judges, the manner of their election, and term of office, was a substitute proposed by Mr. Stinson. The number and qualifications of judges, and the quorum, are the same as prescribed by section 9 of the territorial article. The manner of election is that found in the last part of section 2, article III, of the Ohio constitution. The term of office is the same as that found in the constitutions of California, Oregon, Iowa and Michigan.

Section 3, which defines the jurisdiction of the supreme court and appoints the place for holding its sessions, is section 2, article IV, of the Ohio constitution, with slight changes. The last clause is a part of section 2, article V, of the Missouri constitution. The provision for a clerk and reporter of the supreme court is section 15, article VI, of the Topeka constitution, except that appointment by the judges is substituted for election, as is provided in that article.

Sections 5, 6, and 7, which provide for the division of the state into judicial districts, direct the election of officers for the district court, and prescribe their jurisdiction, are evidently all taken from section 9 of the territorial act, the only difference being that judges and clerks are to be elected, whereas they were appointed under territorial administration.

The organization of the probate court, prescribed in section 8, is a combination of sections 7 and 8 of article IV of the Ohio constitution.

The provision for justice of the peace is based upon section 9 of the Ohio article, though the number of justices is made definite and the term of office is changed from three to two years.

Sections 10 and 11 are either original or so changed in their new combinations that they cannot be identified with their precedents.

Section 12, "All judicial officers shall hold their offices until their successors have qualified," is not found as a separate section in any other constitution, but is a part of section 30, article IV, of the Kentucky constitution. It is found also in the last part of section 3, article V, of the Iowa constitution.

Section 13, providing compensation for the judges, is modeled upon section 14, article V, of the Ohio constitution, with the addition of a specified minimum salary of $2,000 a year. The Missouri constitution, before it was amended in 1823, had prescribed that minimum salary for the justices of the supreme court and judges of the circuit court. This salary was considered extravagant and caused a debate, in which several precedents were cited. Mr. Blunt stated that ex-Judge Williams, one of the best judges of Iowa, had served for $1,000 a year. George H. Lillie stated that $1,500 secured good judges in Missouri. Mr. McDowell, in defense of the proposition of the committee, declared that in Ohio, where the minimum was fixed at $1,500 for the judge of the court of common pleas, petition after petition had been made for a change in the constitution in that particular, that salary being considered too small. Iowa had fixed the salary at $1,000 per year and could not get men of sufficient ability to accept the office. Mr. Wrigley knew that in Indiana, where judges received only $1,000 per year, it was difficult to get men of ability to serve. But Thomas S. Wright also knew something about Indiana and her judges. In one district, Judge McCarthy, one of the most able judges—since elected to the senate of the United States—filled the place for several years at a salary of $1,000, and he knew of plenty of men of ability who would accept the office. John Stiarwalt opposed the provision because the proposed salary was the largest found in any new

state constitution and more than half of the old ones. He cited a case in Missouri where a judge, serving at a salary of $1,000, had been elected to congress, and had returned after his term to the same bench and salary. The minimum salary of $1,500 was finally adopted as a compromise.

Section 14, providing for changes in judicial districts, is evidently a modification of section 15, article IV, of the Ohio constitution. The part which prescribes that districts shall be formed from compact territory bounded by county lines is section 4, article VI, of the New York constitution of 1846. The provision for the removal of judges for definite cause by concurrent resolution of both houses is modeled upon section 17 of article IV of the Ohio constitution. This method of procedure is common to most states.

Section 16, which leaves jurisdiction at chambers to be prescribed by law, finds precedent in section 18, article IV, of the Ohio constitution.

Section 17, fixing the style of all processes, is modeled upon section 20 of the Ohio article IV.

The division of the state into temporary judicial districts at this place in the constitution, finds precedent in the constitution of Illinois and Michigan. The provision is made in the Ohio constitution, in section 11 of the article on apportionment. The administration of new counties,[1] by attaching them to the nearest judicial district, follows the precedent of section 13, article XI, of the Ohio constitution.

Section 20, which authorized the legislature to make a law enabling the district bar to choose a judge *pro tem.* in case of absence or disability of the district judge, was proposed by Mr. Kingman. He stated in a letter to the writer that "it was taken from the Kentucky constitution of 1850, but that constitution not being before the committee, the section was not so worded as to be identified." A diligent search, section for section, does not reveal a provision at all like the one in question. Probably the precedent in the minds of the members of the committee was a statute of Kentucky.

For the article on judiciary as a whole, the constitution of Ohio and the territorial judicial system were the precedents mostly followed, while special provisions were taken from Michigan, Illinois, Missouri, New York, Pennsylvania and Kentucky.

ARTICLE IV.—*Elections.* The first section of the report of the committee, "All elections by the people shall be by ballot, and all elections by the legislature shall be by *viva voce*," is a copy of the first section of the Topeka article on elections. It has precedent also in section 13, article II, of the Indiana constitution of 1851.

The second section has no exact precedent in any other constitution. It is as follows: "General elections shall be held annually on the Tuesday succeeding the first Monday in November. Township elections shall be held on the first Tuesday in April, until otherwise provided by law." These provisions are a combination of customs in practice in New York, Wisconsin, Michigan, Ohio and Illinois. Only a part of the section proposed by the committee was adopted. In advocating the adoption of the section in its present form, Mr. Winchell stated that in New York the state elections occurred upon the day of the presidential election and the township elections were held in April. He considered it a saving of expense to the people for the state and general elections to be held on the same day, and, as far as the township elections were concerned, it was thought best to keep them separate. The plan had given perfect satisfac-

[1] NOTE.—The editor suggests a better reading for this clause would be "the administration of justice in new counties."

tion in New York. Since the people of Kansas had been so worried with frequent elections, such a combination of general and state elections would be a great benefit. The article as a whole does not follow the precedent of any one state, but follows general customs in the manner of voting and the time for holding elections.

ARTICLE V.—*Suffrage.* Section 1, which specifies the qualifications of persons to whom the right of suffrage is granted, is a combination of section 2, article II, of the Topeka constitution, and section 1, article III, of the Wisconsin constitution. The distinguishing words, "white male person," the committee adopted from the Topeka constitution. The indorsement of the policy of excluding negroes from suffrage by the Topeka convention, and by 1731 votes at the polls, led the committee on suffrage to insert the clause in their report. William Hutchinson made an unsuccessful effort to strike out the word "white," and John P. Greer proposed striking out the words "white male," but both motions were laid on the table. A residence of six months in the state and thirty days in the township is also preserved from the Topeka article. The further classification of citizens is a copy of the first two divisions of section 1, article III, of the Wisconsin constitution. This classification also finds precedent in article VII of the Minnesota constitution.

Section 2, which forbids the exercise of privilege of suffrage by idiots, insane persons, and criminals, is an exact copy of section 2, article III, of the Wisconsin constitution. November 5, 1867, the present amended form was adopted.

Section 3, declaring soldiers or seamen in the army or navy of the United States to be non-residents, though temporarily stationed within the state, is, word for word, section 3, article II, of the Indiana constitution. Other precedents are found in the constitution of Illinois, article VI, section 6, and Wisconsin, article III, section 5.

No provision had been made in the report of the committee for the registration of voters, so Mr. Burris introduced the provision, now section 4, which is a copy of section 4, article II, of the New York constitution: "The legislature shall pass such laws as may be necessary for ascertaining by proper proofs the citizens who shall be entitled to the right of suffrage hereby established." This section was introduced to give the legislature power to stop the fraudulent voting which had caused so much trouble during the earlier history of Kansas. Yet it met with determined opposition from a small faction in the convention. Upon a call for the yeas and nays, the vote stood twenty-five in favor to thirteen against the provision.

Section 5, rendering duelists ineligible to hold any office of trust and profit, is, word for word, section 7, article II, of the Indiana constitution. Similar provisions are found in several other constitutions.

Section 6, which prohibits any person from holding an office secured by means of bribery, is not exactly like any section of any other constitution, though its provisions are common to almost all. It is most nearly like section 6, article II, of the Indiana constitution. Mr. Arthur, a member of the committee, was a native of that state, and probably caused the adoption of the section, with the present changes in wording.

For the provision protecting citizens from arrest while in attendance at elections, and in going and returning therefrom, the committee returned to section 3, article V, of the Ohio constitution, which they adopted word for word. Such provision is found in the article on elections and franchise in nearly all constitutions.

The article on suffrage is therefore a combination of provisions from

the constitutions of Indiana, Wisconsin, Minnesota, Illinois, New York, and Ohio.

ARTICLE VI.—*Education.* The constitution of Ohio having only two short sections in its article on education, the committee had to look elsewhere for its specifications for a public-school system. The provisions found in the constitutions of Iowa, Wisconsin, Oregon, Michigan and California most nearly represented the ideal in the minds of the members of the committee. In order to harmonize the various provisions several changes were made and new ideas inserted.

The office, manner of election and term of the state superintendent of public instruction being provided for in the article on executive department, the committee supplied for section 1 a further development of section 1, article XIII of the Michigan constitution, and added a provision for a county superintendent. This is the first provision of this character to be placed in any state constitution.

The first part of section 2, "The legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement," has exact precedent in the first clause of section 3 of the article on school funds and school lands in the Iowa constitution. The amplification of the system of schools contained in the remainder is from section 7, article VII, of the Leavenworth constitution, a slight change in phraseology being made to combine the two parts.

Section 3, as reported by the committee, was word for word, section 3, article IX, of the Iowa constitution. It establishes both the perpetual and annual school funds, and defines the sources of each. The section has, also, partial precedent in the constitutions of Wisconsin, California and Oregon. That part of section 4 which states that the income of the fund shall be distributed "by order of the state superintendent to the several county treasurers, and thence to the treasurers of the several school districts," was original with the committee, all earlier constitutions having left the manner of distribution to be prescribed by law. That part of the section which specifies the proportion of the fund to be distributed to each district, and denies a share to those districts in which school has not been maintained for at least three months during the preceding year, is modeled upon section 5, article X, of the Wisconsin constitution. A few changes were made by the committee. The limit of the age of pupils to be counted in making the apportionment was changed from the four years and twenty years of the Wisconsin constitution, to five and twenty-one years.

Section 5, which forbids the sale of school lands, unless authorized by a vote of the people, and makes provision for a revaluation of such lands every five years, must have been original, no such provision occurring in any earlier constitution.

The section which applies all money received for exemption from military duty and the proceeds of the fines imposed for breaches of the penal law exclusively to the schools of the county where such money is collected is exactly the first part of section 4, article IX, of the Iowa constitution. In lieu of the last part of that section, the committee added to the above list of resources "the clear proceeds of all estrays."

The first and last sentences of section 7 show that it is modeled from section 6 of article X of the Wisconsin constitution. The section provides for the establishment of a state university, and specifies the funds to be used for that purpose. The division of the university into different parts "for the promotion of literature, and the arts and sciences, including a

normal and an agricultural department," is original, in wording at least. This was the first section of the report of the committee on education that aroused any opposition. Mr. Greer wished the whole section stricken out; he was opposed to state universities. "Institutions of learning ought to be left to private enterprise." Several members thought one state institution for educational purposes ought to be established, but that an agricultural college would be more beneficial to the state. The original portion of the section was made broad enough to permit the development of the institution which should prove the most important.

The precaution taken against the use of the public school funds by any religious sect, in section 8, is modeled upon section 5, article VII, of the Leavenworth constitution. The word "university" was added to make the prohibition cover both funds. Another precedent of the section, though not stated in quite the same terms, is found in the last part of section 2, article VI, of the Ohio constitution.

In section 9 the committee had made provision for the education of negro children, as follows: "The children of African descent shall be entitled to an equitable proportion of the common-school fund of the state, and the legislature shall make suitable provision for their education." The introduction of this section caused an exciting debate. Mr. Slough introduced as a substitute: "Mixed common schools or universities for children of white blood and children of African descent shall not be permitted in this state." Mr. Blunt succeeded in dismissing the race question by proposing a provision for a state board of commissioners for the management and investment of the common-school and university funds. It is section 7, article X, of the Wisconsin constitution, except that the state superintendent of public instruction is substituted for the treasurer on the board. The last sentence was changed slightly by the committee on phraseology and was then adopted in its present form.

The greater portion of the entire report on education was drawn about equally from the Iowa and Wisconsin constitutions, while the constitutions of Michigan, California, Oregon and Leavenworth contributed one section each.

ARTICLE VII.—*Public Institutions.* The specifications for an establishment of institutions for the care of the deaf and dumb, blind, and insane, and for a penitentiary, are exactly those of sections 1, 2 and 3 of article VII of the Ohio constitution. The committee rearranged the sections so as to separate the provisions for the penitentiary from those for charitable institutions. The manner of choosing the trustees, directors and other officials remains the same. The fourth section, imposing upon each county the care of its own poor and infirm, is modeled upon section 3, article VIII, of the Topeka constitution. A strenuous effort was made by a certain class of members to insert a provision excluding persons of African descent from the educational and charitable institutions of the state. A debate ensued, in which both parties strayed far from the question at issue. In opposing the proposed section, Mr. Burris said: "What claim has one class of men to the common benefits of the state above that of each and all other classes. If any gentlemen can point out any precedent that can be recognized in law or justice we will yield the point. We must proceed upon the supposition that the blacks are to live in common with the whites. I ask if it is desired to see that class of citizens growing up in entire ignorance? If they are to live in the state they should be made as intelligent and moral as training in the schools and other state institutions can make them." After several hours' debate the section was rejected. The

committee therefore followed the Ohio precedent in the article, except in the last section, which was drawn from the Topeka constitution.

ARTICLE VIII.—*Militia.* Section 1, specifying the citizens subject to service in the militia, and exempting persons having conscientious scruples against bearing arms, is, *verbatim*, section 1, article XVII, of the Michigan constitution, except that twenty-one years is substituted for eighteen years as the age at which militia service begins. Sections 2 and 3, which provide for the organization, equipment and discipline of the militia, and for the appointment of officers, are exactly sections 2 and 3 of the Michigan article on militia. Mr. Slough moved, as an additional section, the governor shall have power to call forth the militia to execute the laws of the state, to repress insurrection and repel invasion, and he shall be commander-in-chief of the militia. Except the last clause, this section was a copy of section 3, article VII, of the California constitution. The committee on phraseology changed the wording to its present form. The whole article is therefore taken from the Michigan constitution except the last section, which has precedent in California and Ohio.

ARTICLE IX.—*County and Township Organizations.* The first section of the report of the committee did not please some members of the convention. Four different substitutes were offered and four amendments were made to the one adopted. The result was no more satisfactory than the original. The substitutes and amendments were sent to the committee on phraseology, to be molded into an acceptable provision. It was returned in its present form—"The legislature shall provide for organizing new counties, locating county-seats, and changing county lines; but no county shall be changed without the consent of a majority of the electors of the county, nor any county organized, nor the lines of any county changed so as to include an area of less than 432 square miles." The section is therefore not identical with any one in any other constitution. Most of its provisions are found in article VII of the Illinois constitution of 1848. The last part of the section, Judge Burris says, is a part of section 2, article XI, of the Iowa constitution.

Section 2, providing for county and township officers, is section 1, article X, of the Ohio constitution, with the omission of three words.

Sections 3 and 4, providing for the election and term of service of county and township officers, were changed to correspond with the date for elections and other provisions of the article on elections.

The method of removing officers is modeled upon section 6, article IX, of the Ohio constitution.

Of the five sections in the article, two have precedent in the Ohio constitution, two were necessarily original in form, and one was composed of different provisions from the Illinois and Iowa constitutions.

ARTICLE X.—*Apportionment.* In the debate upon the first section, Mr. Graham, a member of the committee, stated that the precedent followed was the Pennsylvania constitution. The first part of the section, "Each organized county shall have at least one representative," is a part of section 4, article 1, of the Pennsylvania constitution. The remainder of the section differs in wording, but carried out the purpose of the Pennsylvania provision. Mr. Thacher stated that this method of apportionment was in practice in New York. A large number in the convention argued that it was not fair to the most populous counties to give to each organized county at least one representative. The majority argued that to join a county of small population to another, which really elected the repre-

sentative, would disfranchise the smaller county and would work a greater injury than was possible to the citizens of the most populous county. The population of the new counties was rapidly increasing, and they would soon be entitled to representation based strictly upon numbers.

Section 2, providing for apportionment according to census, though following, in part, section 18, article II, of the Pennsylvania constitution, is for several reasons almost entirely original. First, the territorial legislature had ordered a census to be taken, so the first apportionment was to be based upon its report; second, the population was growing so rapidly that the committee thought best to apportion the state every five years, instead of waiting ten years, as is provided in most constitutions. By fixing the first reapportionment in 1866 it could be based upon the census provided for in 1865 by the legislative article. In five more years it could be based upon the United States decennial census, as was provided in section 18, article II, of the New York constitution.

Section 3 merely makes temporary apportionment, as is done in the constitutions of New York, Wisconsin, and Illinois. The same was done also by the Topeka constitution.

From the nature of the subject-matter the wording of the article on apportionment is very nearly original, though the precedents of Pennsylvania, New York, Wisconsin and Illinois were followed in theory.

ARTICLE XI.—*Finance and Taxation.* The report of this committee followed very closely the approved precedent, the first section only of the Ohio article on finance and taxation being rejected in the report.

For section 1 the committee presented a section, the substance of which was contained in section 2, article XII, of the Ohio constitution, but the phraseology, not pleasing the majority, was changed to the present form.

Section 2, which levied a tax upon all property of banking institutions, proportional to that borne by individuals, is, *verbatim*, section 3 of the Ohio article on finance and taxation.

The provision for an annual appropriation by the legislature for state expenses had exact precedent in section 4, article XII, of the Ohio constitution. The section was amended November 2, 1875.

The precaution taken in section 4, that no tax should be levied except in pursuance of a law, which shall distinctly state the object of the same, is a copy of section 5, article XII, of the Ohio constitution.

Section 5, which enables the legislature to create a limited public debt, the committee had copied entire from the Wisconsin constitution, article VIII, section 6. Three small changes were made. The words "public improvement" were inserted. The amount of debt which could be contracted was changed from $100,000 to $1,000,000, and the debt was made payable when due, instead of in years, as in the precedent.

Section 6 provides that the state may contract public debt, in addition to the limit mentioned above, if the proposition is sanctioned by the majority of all votes cast at a general election. The idea has precedent in section 5, article VIII, of the Iowa constitution, though several of the provisions included in that section are not appropriated.

Section 7, which enables the state to borrow money to repel invasion, suppress insurrection, and to provide for defense in time of war, is *verbatim*, section 7, article VIII, of the Wisconsin constitution. Mr. Hoffman wished to make it possible for the state to take charge of works of public improvement, if the necessary funds should be donated by the United States. He therefore proposed, in addition to the report of the committee, a section identical with section 10, article X, of the Wisconsin constitution. As several members thought that the section might be misinterpreted, and

made the means of creating an unlimited public debt, amendment after amendment was adopted, until the original purpose of the section was defeated by the adoption of the remnant that was left—"the state shall never be a party in carrying on any works of internal improvement."

In preparing the entire article, the constitutions of Ohio and Wisconsin were the models followed. Iowa and Indiana were frequently referred to as further precedent.

ARTICLE XII.—*Corporations.* During the debate upon the report of the committee on corporations, Mr. Slough proposed as a substitute for section 1 a provision which he said was a combination of sections 1 and 2 of the articles on corporations in the Ohio constitution. The section was adopted as follows: "The legislature shall pass no special act conferring corporate powers. Corporations may be created under general laws, but all such laws may be annulled or repealed."

Section 2, providing means of security to creditors of corporations, is modeled upon section 3, article XIII, of the Ohio constitution, and a clause is added exempting railroads, and corporations for religious and charitable purposes, from the liabilities enumerated in the section. This addition was made by the committee with the purpose of encouraging capitalists to build roads in Kansas, and to promote religion and morality.

Section 3, which vests the title to property belonging to corporations for religious purposes in a board of trustees, had its precedent in section 4, article IV, of the Leavenworth constitution.

Section 4, which guarantees compensation to property-owners before a right of way shall be granted to any corporation, is, word for word, section 5 of the Ohio article on corporations.

The provision for the organization of cities, towns, and villages, and the restriction placed upon their own taxing power, follows the precedent of section 6, article XIII, of the Ohio constitution, with two small changes. Mr. Slough said that the practical operation of the provision in the Ohio constitution had been to limit, in cities and towns, the amount of tax that might be levied for municipal purposes. It had prevented the abuse of the taxing power, and was one of the wisest and best provisions that could be inserted in the constitution.

The definition of the term "corporations," as used in the article, is found in the constitution of Michigan, New York, Minnesota, and several other states.

In conclusion, it is evident that four of the six sections of the article find precedent in the Ohio constitution; one of the two remaining sections is from the Leavenworth constitution; while the other has precedent in the constitutions of several [other] states.

ARTICLE XIII.—*Banking and Currency.* The Ohio constitution furnished no precedent for the committee on banking and currency to follow in their deliberations. After the Jackson-Van Buren financial panic, the constitutional conventions of new states made limited provisions in connection with some other subject, and left the specific control of such institutions to the legislature. No state before Kansas considered banks and currency of such vital importance as to require a separate article. The Topeka convention profited by the successes and failures of the provisions of other states in forming the article on this subject. The Leavenworth committee improved upon the Topeka report, but changed few essential points. The committee of the Wyandotte convention followed this article very closely in preparing its report. Only sections 2, 3 and 7 are not found in the Leavenworth constitution.

Section 2, providing that all banks shall deposit, as collateral security for their notes, interest-bearing bonds of the several states equal to the amount of notes issued and a further deposit of ten per cent. in cash, has partial precedent in section 8, article VIII, of the Iowa constitution, and in section 3, article XI, of the Indiana constitution, and in several others, but the phraseology was original with Mr. Winchell. The section was further amended by motion of Mr. Slough and Mr. Hutchinson.

Section 3, requiring an additional deposit in case of depreciation in the value of the bank stocks, has precedent in the second part of section 13, article IX, of the Minnesota constitution, and in the last part of section 8, article VIII, of the Iowa constitution, but the section proposed by the committee provides better security to creditors, and must have been partly original.

Section 6, which was exactly section 7 of the Leavenworth article on banking and currency, was amended by Mr. Slough's proposing that the "location of the bank be named upon the circulating notes issued by such banks."

Section 7, "No banking institution shall issue bills of less denomination than five dollars," was an addition to the report of the committee, proposed by Mr. Slough. It was modeled upon the last part of section 2 of the Topeka article. The minimum amount was changed by amendment from ten to five dollars.

Section 9 was originally section 8, article XVII, of the Leavenworth constitution, but was reduced by amendment to its present form, "Any banking law may be amended or repealed."

In conclusion, it is evident that the precedent for the article on banking and currency is article XVII of the Leavenworth constitution. A few suggestions are adopted from the constitutions of Iowa and Indiana and combined with some original ideas to form the completed article.

ARTICLE XIV.—*Amendments.* The two sections of the article are modeled upon article XVI of the Ohio constitution. Only two important changes were made. A vote of two-thirds was substituted for the three-fifths required by that constitution for recording in the journal an amendment proposed for submission to the people. Three months was substituted for the six months required by the Ohio constitution for the publication of an amendment before its submission, and a few changes are made in the phraseology, which do not change the meaning of the provisions. The report of the committee contained a third section, providing for the protection of a family homestead. It was rejected at this time, but reappeared in section 9 of article XV.

ARTICLE XV.—*Miscellaneous.* Sections 1 and 2, which confer on the legislature the power to provide for the election or appointment of other necessary officers, and to prescribe their term of office, are sections 6 and 7, respectively, of the California constitution.

Section 3, "Lotteries and the sale of lottery tickets are forever prohibited," was, *verbatim,* section 6, article XV, of the Ohio constitution, when reported by the committee, but was changed to its present form by amendment. The provision is also found in the Topeka constitution, article XV, section 2, and in several other [state] constitutions.

Sections 4 and 5, providing for a state printer, and taking precaution to guard the use of public money by publication of accounts, are sections 2 and 3, respectively, of article XV of the Ohio constitution. A slight amendment was made in the phraseology of section 4. Mr. Slough said in

debate that the provision worked well in Ohio. The present amended form was adopted November 3, 1865.

Section 6, when reported by the committee, was, word for word, section 6, article XVI, of the Leavenworth constitution, as follows: "The general assembly shall provide by law for the protection of the rights of women, married and single, in the acquisition and possession of property, real, personal, mixed, separate and apart from the husband, or other person, and shall also provide for the equal rights of women in the protection with the husband of the children during their minority; also, shall provide for the security of a homestead, which, without the consent of the wife, she cannot be deprvied of." The section was adopted as quoted, but was reconsidered to its present form upon the addition of section 9, which was not a part of the original report.

The purpose of the section which confers power upon the legislature to reduce the salaries of officers who neglect the performance of any legal duty is the same as that of section 13, article VIII, of the Kentucky constitution. This is the section which suggested the idea, though the wording of the section adopted is quite different.

Ex. Gov. John A. Martin, in his address at the reunion of members of the Wyandotte convention, stated that the homestead provision is one of the few original sections of the constitution. The idea, however, had ample precedent in both the Michigan and California constitutions. The subject was discussed several times during the convention, different provisions being proposed, one of them being, word for word, section 7, article XVI, of the Leavenworth constitution. The section finally proposed by Mr. Winchell was the Leavenworth provision, with the addition of amendments proposed during the debate.

THE SCHEDULE. Though not technically a part of the constitution, the schedule is a valuable adjunct to such a document.

The first eight sections follow closely the precedent of the Indiana schedule of 1816.

Sections from 8 to 20, making all necessary provision for submitting the constitution to popular vote, are very near exact transcripts from "An act of the territorial legislature providing for the formation of a constitution and state government for the state of Kansas."

The remainder of the schedule follows in part the provisional act of the legislature, but was largely original, since the members of the convention decided to create a board of canvassers who should canvass the votes cast, issue certificates of election, make the proclamation, and provide for the transmission of authenticated copies of the constitution to the president of the United States, president of the senate, and the speaker of the house of representatives. By the provisional act of the legislature these important duties had been left to the governor.

After the report of the committee was completed, section 25, providing for the separate submission of the homestead section to a vote of the people, was added. This section had been prepared by the committee on phraseology and added to the schedule as the most appropriate place for such a provision.

The schedule to the Indiana constitution of 1816 and the territorial act providing for the formation of a constitution and state government for the state of Kansas are the precedents followed in forming the schedule.

RESOLUTIONS. A precedent for a memorial in the form of a series of resolutions was found in the Wisconsin constitution of 1848. Members of the convention had several different measures which they had been unable

to incorporate in the ordinance, but yet wished to present to congress in connection with the constitution. A series of seven resolutions were adopted. Five of them asked for grants of land, the proceeds of which was to be used for internal improvement, construction of railroads, development of the Kansas river, support of public schools, and payment of claims awarded by the claims commission. The seventh resolution asked congress to assume the debt of the territory. The first and third resolutions had been a part of the report of the committee on ordinance, and the fifth had precedent in the seventh resolution of the Wisconsin constitution. The precedent followed in adopting the series of resolutions [is] in the Wisconsin constitution.

Upon the last day of the convention, Judge Burris had the honor of adding the finishing touch to the constitution by proposing the attesting clause, "Done in convention at Wyandotte, this 29th day of July, A. D. 1859." Even this clause followed in form the model of the Ohio and Iowa constitutions.

In conclusion, it is evident that the Ohio constitution of 1851, adopted as a common basis for action, was closely adhered to in all cases where its provisions were adapted to conditions in Kansas. The Ohio constitution of 1851, being entirely without ordinance and memorial, and deficient in its provisions for an educational system, for the establishment and control of banks and currency, and for the organization and discipline of the militia, the constitutions of Indiana, Wisconsin, Michigan and Iowa were largely drawn upon to make up the deficiency. In other instances where the constitution of Ohio did not apply to conditions in Kansas, or could be improved upon, provisions were adopted from the constitutions of Indiana, Wisconsin, Michigan, Iowa, New York, Massachusetts, Illinois, Missouri, Kentucky, California, Maine, Minnesota, Vermont, Pennsylvania, Oregon; from earlier constitutions, and [the] territorial government of Kansas. A careful comparison shows that nearly every section of the Wyandotte constitution was either copied from or based upon some section to be discovered in some preceding constitution. The provisions not drawn from or based upon the constitution of some other state are: First, the provision for the equal education for the sexes, and for the election by the bar of a judge *pro tem.* of the district court, which were supposed to be based upon sections in the Kentucky constitution, but were really legislative enactments; second, the provision that all bills should originate in the house of representatives, which is an extension of the theory in practice concerning revenue bills; and third, the provision in the educational system for a county superintendent of public instruction, and an outline of the method of distributing the public-school fund to the districts, and of a revaluation and sale of school lands, all of which were legislative enactments of neighboring states. Five of the six provisions in advance of any other state constitution had been thoroughly tested as laws of other states before their adoption by Kansas. The provision that all bills should originate in the house of representatives, the only real experiment in the constitution, was repealed November 8, 1864.

AUTHORITIES. Journal of Wyandotte Convention; Poore's Charters and Constitutions of the United States; American's Guide to State Constitutions; Jameson, Constitutional Convention; Constitutional History of the American People, 1776-1850, J. N. Thorpe; Reports of Committees, First Session Thirty-fifth Congress; Senate Documents, First and Second Sessions of the Thirty-fourth Congress; The Public Domain, by Donaldson; Annals of Kansas, Daniel W. Wilder; American Statute Law, Stinson;

General Laws of Kansas, 1859; History of Kansas, L. W. Spring; History of Kansas, J. N. Holloway; address by John A. Martin, delivered at the reunion of members and officers of the Wyandotte constitutional convention; address of Hon. Timothy Dwight Thacher, delivered at Topeka, January 16, 1883, before the Kansas State Historical Society; address of Hon. Benjamin F. Simpson, upon the Wyandotte constitution; personal letters to the author from Hon. John J. Ingalls, Judge Samuel A. Kingman, Judge John T. Burris, and C. B. McClelland, who were members of the Wyandotte convention.

RESUME OF MISS PERDUE'S PAPER, BY THE EDITOR.

In this resumé the names of the states are arranged after every article in the order of importance of matter taken, the most liberal appearing first. They are: Ohio (1851), Michigan (1850), Iowa (1859), Wisconsin (1848), Illinois (1848), Indiana (1851), Minnesota (1857), New York (1846), Pennsylvania (1838), Kentucky (1850), Kansas Territory former attempts: Topeka (1855), Lecompton (1857), Leavenworth (1858), English Bill (congressional act of 1858), known as Lecompton, Jr.

A. SOURCES BY ARTICLES:

(*Ordinance:* Lecompton, English Bill, California.)
Preamble: Minnesota, Wisconsin, Iowa.
Bill of Rights: Ohio.
Art. 1—Executive: Ohio (almost entirely), Iowa, New York.
Art. 2—Legislative: About equally amongst Ohio, New York, and Wisconsin; Topeka, Leavenworth.
Art. 3—Judicial: Ohio, Kansas Territory, Michigan, Illinois, Missouri, New York, Pennsylvania, Kentucky.
Art. 4—Elections: Topeka, New York, Wisconsin, Michigan, Illinois, Indiana, Ohio.
Art. 5—Suffrage: Topeka, Wisconsin, Minnesota, Indiana, New York, Ohio, Illinois.
Art. 6—Education: Iowa, Wisconsin, Michigan, California, Oregon, Leavenworth, Ohio.
Art. 7—Public Institutions: Ohio, Topeka.
Art. 8—Militia: Michigan (except last section), California, Ohio.
Art. 9—County and Township: Two sections from Ohio, two sections original, Illinois, Iowa.
Art. 10—Apportionment: Pennsylvania, New York, Wisconsin, Illinois. Phrasing is original.
Art. 11—Finance and Taxation: Ohio, Wisconsin, Iowa, Indiana.
Art. 12—Corporations: Ohio, Leavenworth, Michigan, New York, Minnesota.
Art. 13—Banking and Currency: Leavenworth, Iowa, Indiana, with original ideas.
Art. 14—Amendments: Ohio.
Art. 15—Miscellaneous: California (secs. 1 and 2); Ohio, Topeka (sec. 3); Ohio (secs. 4 and 5); Leavenworth (sec. 6); Kentucky (sec. 7); original (sec. 8); Leavenworth (sec. 9, Homestead).
(*Schedule:* Indiana (1816), Kansas Constitutional Act (pages 7-11).)
(*Resolutions:* Wisconsin resolutions.)
Attesting Clause: Ohio and Iowa.

B. SOURCES IN GENERAL:

1. *Constitutions:*

Basic Constitution: Ohio (pages 39-40).

Departures from base upon subjects: Memorial, Educational system, banking and currency, and militia: Lecompton, English Bill, California, Minnesota, Wisconsin, Iowa, Oregon, Leavenworth, Indiana, Michigan, Iowa.

Conditions of Ohio and Kansas inapplicable: Recourse was had to Indiana, Wisconsin, Michigan, Iowa, New York, Massachusetts, Illinois, Missouri, Kentucky, California, Maine, Massachusetts, Vermont, Pennsylvania, Oregon, Topeka, Lecompton, Leavenworth, Kansas Territory Government Act.

2. *From Statutes:* Kentucky and neighboring states to Kansas.

3. *Original:* Only real experiment, confining origin of bills to House of Representatives (sec. 12, art. 2).

APPENDIX D-2.

SOURCES OF THE CONSTITUTION.

(Excerpt from an article by Robert Stone of Topeka, published in Connelley's "Kansas and Kansans," Vol. 2, pages 948 to 952, and republished here by the courtesy of Messrs. Connelley and Stone.)

When the convention convened one of the first questions which arose was whether or not to use the constitution of some other state or some former draft of the Kansas constitution as a model from which to draw the new document. On the first ballot Ohio received 13 votes; Indiana 12; Kentucky 6; the Leavenworth Constitution 5; the Topeka Constitution 3; Pennsylvania 2; Iowa 2; Wisconsin 2; Massachusetts, Michigan, Maine, Minnesota and Oregon 1 each. On the second ballot Ohio received 25, Indiana 23, and Kentucky 1. The constitution of Ohio, having received the majority, was declared to be the proposed basis for the new document.

The greatest speech of the convention was made by Thacher in opposition to a proposal to exclude free negroes from the state. This speech forever settled the question of absolute freedom of Kansas soil, although the vote upon the proposition when taken stood twenty-one ayes and twenty-six nays.

To us of this day it seems strange that any argument was necessary to defeat the proposition. But the sentiment in favor of it was so strong in the convention that several of the members predicted that the constitution would be defeated unless the provision excluding the free negro from the state should be included in it. Their apprehension proved to be without foundation.

A very interesting discussion arose over the northern boundary of Kansas. Delegates came from Southern Nebraska and petitioned the convention to fix the northern boundary of the state at the Platte River. They argued with great earnestness that the present boundary was an artificial one, while the river was a natural boundary because it could not be forded because of quicksand, could not be bridged because no bottom could be found for the piers, and could not be ferried because there was not enough water to float a boat. That at times it was a raging torrent and at other times a stretch of sand. They offered to give to Kansas a rich area of territory and the democratic members of the convention were unanimously in favor of the tender. But the republicans "feared the Greeks bearing gifts," they suspected the inhabitants of that land were democrats and might either defeat the constitution altogether, or elect democratic United States senators, from the new state, so the boundary line was fixed at the 40th parallel.

Two of the older states, New York for the North and Virginia for the South, have furnished the models for most of the constitutions of the several states. The Ohio constitution was in the main founded upon that of New York. All sub-committees of the convention were instructed to use the Ohio constitution as a model for their particular articles and in the main they followed those instructions, but throughout the proceedings we find frequent allusion to the constitutions of the different states and also to the Topeka and the Leavenworth constitutions, showing that while the Ohio constitution was used as the model in the main it was not strictly followed. The constitutions from which provisions were taken other than the Ohio constitution were principally Michigan, Kentucky, Indiana, Iowa,

Wisconsin, Illinois, Pennsylvania, and the Topeka and Leavenworth and even the Lecompton constitutions. The ordinance was taken largely from the Lecompton constitution. The executive and legislative articles followed largely the Ohio precedent, but the qualifications of the members of the legislature is taken from the Wisconsin constitution, with a number of the sections adopted from the Topeka and Leavenworth constitutions. One provision improving the status of women which provides "the legislature in providing for the formation and regulation of common schools shall make no distinction between the rights and privileges of males and females," was taken from the constitution of Kentucky.[1] The article on elections and suffrage followed largely the Topeka constitution. The article on education was a merger of provisions found in Iowa, Oregon, Michigan, Wisconsin and California. The article on banking and currency was made up from the Topeka and Leavenworth constitutions. Nearly every section can be traced to some provision of some preceding constitution, except perhaps the provision that all bills should originate in the House of Representatives, and this provision was repealed in November, 1864.

This, however, does not mean that the instrument was not progressive in its character. On the contrary most of the constitutions from which its provisions were taken had been recently adopted by the respective states and from them were gleaned the best and most progressive provisions. The sagacity of the Wyandotte Convention consisted in its selection of these provisions and the amalgamation of them into a consistent and harmonious instrument. Most of the progressive ideas of the decade were incorporated in the instrument. Slavery was prohibited. Free negroes were not excluded. Wild cat banking paper was proscribed. Ample provision was made for common schools and higher education. The rights of women were recognized and advanced and the homestead was guarded against covetous creditors. It is true that some progressive measures were suggested to the convention which were not adopted. John Ritchie offered the following: "That the state of Kansas shall confer power on the legislature to prohibit the introduction, manufacture or sale of spirituous liquor in the state." The provision was not adopted. But twenty-one years later, in November, 1880, the prohibition amendment was passed.

Mr. Ritchie moved to strike the word "white" from the article establishing the state militia. Only six voted in favor of the motion, but the section was so amended in 1888. Mr. Hutchinson presented a petition of 252 inhabitants of Douglas and Shawnee counties asking that the right of suffrage be extended to women. The petition was not granted, but in 1914 that right was extended to women.

There are two provisions in the Wyandotte Constitution which make it a mile-post in legislation. One is the extension of married women's rights and the other the homestead exemption. These provisions are linked together and touch the social life of the state through the family. The two sections are as follows:

"SECTION 6. The Legislature shall provide for the protection of the rights of women, in acquiring and possessing property, real, personal and mixed, separate and apart from the husband; and shall also provide for their equal rights in the possession of their children."

"SECTION 9. A Homestead to the extent of one hundred and sixty acres of farming land, or of one acre within the limits of an incorporated town or city, occupied as a residence by the family of the owner, together with all the improvements on the same, shall be exempted from forced sale under

[1] NOTE.—Miss Purdue disagrees. She says that it was taken from the Kentucky statute. She is right in saying it is not in the Kentucky constitution.

any process of law, and shall not be alienated without the joint consent of husband and wife when that relation exists; but no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon. *Provided*, The provisions of this section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife."

From early history woman has been little better than a chattel and even under the common law of England a woman upon her marriage surrendered all her right to hold personal or real property to her husband. Not only her individuality became merged in her husband, but he enjoyed the right of possession and disposition of her property. Her goods became liable to seizure and appropriation by his creditors. Through the profligacy or ill-management of the husband a woman who was well-to-do in her own right before her marriage might be reduced to poverty after her marriage. Except as modified or repealed by the constitution or statutes the common law of England applied to most of the states, including Kansas. The men of the Wyandotte convention determined that no such injustice would be fastened upon the women of Kansas, and by the section first above quoted they restored for all time to their women the management and control of their own property so far as law can give it to them. By the second provision they fixed for her and her children a homestead which could not be violated or torn from her and them by the malice, ill-management or misfortune of the husband, except by the joint consent of the wife.

Homestead laws are an American institution, unknown in other lands. The first statutory provision exempting the home from execution was enacted by the Republic of Texas in 1839, and the first homestead exemption placed in a constitution was in that of Texas in 1845. The second was the constitutional provision adopted by Vermont in 1849. In 1859, when the Wyandotte convention assembled, it was a scarcely recognized political doctrine. The leading advocate for a constitutional homestead exemption was Samuel A. Kingman. Without his great earnestness and logical argument it never would have been adopted by the convention, because other men strong in debate, such as Thacher, Ingalls and Stinson, opposed it, claiming that the homestead exemption would enable men to avoid their just debts and would injure the credit of the state. One of the opponents said: "I would rather abolish all laws for the collection of debts than that the section should pass in its present shape," and that he would prefer a $2,000 exemption rather than a homestead exemption. It was left for Houston, Griffith and Kingman to point out the distinction between a homestead and an exemption law, Kingman saying:

"The object of a homestead law is very unlike that of an exemption law. And I think the amendment proposed is calculated to defeat the homestead principle. I think that is its object. It is within the recollection of many when it was the settled policy of many of the States, that the land should not be subject to sale for the payment of debts. But the commercial interests of the country by their power and skill produced a change which has subjected the farms and homes of the people to be sold under execution, and so nearly converted our people into a class of nomads. I want, if possible, to restore the old policy—to change back again—so that every man or woman, if he plants a tree or she cultivates a rose—that both may beautify and adorn their homes as they may choose, and have the benefit of the protection of the law. But if we put it in the power of the husband or the fortunes of trade to convey by lien or mortgage, the grasping creditor will take away the homestead. I want to separate this subject from anything like the consideration of an exemption law. I

approach this as a great measure which rises above all considerations of the rights of debtor and creditor. I abhor an exemption law. This is not of the same nature. This is to go forth, the promulgation of a great principle, that shall encourage the cultivation of the soil. The case was well illustrated by the gentleman from Riley (Mr. Houston); and though it would be impossible for me to emulate the flights of his fancy and the boldness and strength of his doctrine, I am not therefore restricted as to my full share of feeling and anxiety for the success of this most important measure."

That was a novel doctrine then, but since that time every state in the Union, except, we believe, Delaware, Indiana, Maryland, Pennsylvania and Rhode Island, has, by constitutional or statutory provision, recognized its soundness. It fosters the family as the primal factor of society and thus promotes general welfare. To protect the home is to preserve the family from disintegration. To dignify the wife is to develop citizenry. If the homes are permanent in character the community will build schools, churches, libraries. The spirit of free citizenship and patriotism will thrive, and the state will be healthy and prosperous. The Kansas courts have given liberal construction to the constitutional provision. Early in the history of the state, while Kingman was chief justice, the court declared that the wife's interest in a homestead under this provision was not an inchoate and expectant thing, a mere veto upon the right of the husband to alienate the estate, but that it was a real existing estate under which the occupation and enjoyment thereof is secure to her against any act of her husband or creditors without her consent. If her husband abandon her the use of the homestead remains to her and the family. It is not like dower depending on uncertain events, but fixed and certain without need of any statutory enactment. In later years the same court has declared that the right belongs to the wife alone, independent of any children. The great bereavement of her husband's death would not admit the gaunt grey wolf of debt to ravage the home and turn into mockery the constitutional provision prepared against the days of her adversity. On the contrary, she continues in the enjoyment of precisely the same right of immunity from the loss of her hearthstone by suit of her husband's creditors as before his death. And so the widow is protected as well as the wife. But the court has gone farther still and now holds that while the right of exemption cannot originate without the existence of a family consisting of more than one person, when the homestead character has once attached and the head of the family remains in continuous occupation of the property, though all others may die or forsake him, it is still occupied as a residence by a constituent part of the family and he may hold it sacred from invasion for his sole use and occupation.

By these provisions the wife and mother becomes a proprietor in her own right, part owner of her home and queen of her domain. The husband and father has a castle safe from invasion where he may retreat in time of storm or adversity. Failure cannot affect it, disaster cannot destroy it. Friends may desert him, but his enemies cannot reach him. He and his family are secure. For the present and for the future the permanency of the home is established. His place in the community is fixed and his interests in the state are anchored and strengthened.

No marble column or granite shaft could be so fine a tribute to the memory of the men of the Wyandotte convention as the married women and the homestead exemption provisions of the constitution. These two clauses make every happy family and peaceful home in Kansas a monument to their memory. Succeeding generations of Kansans will hold them in grateful veneration.

APPENDIX E.

THE REJECTED CONSTITUTIONS.

(An address delivered by Hon. T. Dwight Thacher at the Quarter-Centennial Celebration of the admission of the State of Kansas into the Union, held at Topeka, January 29, 1886. The address was published by the Kansas Historical Society in Vol. 3 of the Kansas Historical Collections at pages 436 to 448. By the permission of the Society, it is reproduced here as a fitting fore-word to the history of the development of our Constitution.)

The constitutions of Kansas were an outgrowth of the struggle between Freedom and Slavery for the control of the inchoate commonwealth. Their genesis was altogether political; they were citadels around which the storm of battle surged, and were occupied or abandoned, as the varying fortunes of the great contest demanded. No study of these constitutions, or indeed of the history of Kansas generally, can be successful, or do the slightest justice to the subject, which does not recognize in the beginning, and at every step of the discussion, the great controlling fact that the master motive of the whole business was the determination on the one side to make Kansas a slave state, and on the other a free state. Any other view degrades the subject, and in effect falsifies its history.

The overthrow of popular sovereignty in the Territory by the Missouri invasion of March 30, 1855, left to the people two courses to take: either to condone the immeasurable outrage by acquiescing in the result and conceding the validity of the bogus Territorial Legislature, or to indignantly repudiate the whole thing. Fortunately the people chose the latter course. It would have been a sorry day for Republican institutions could any considerable number of the American people have been found ready to yield their local sovereignty to insolent invasion and overmastering force without protest and resistance, and the most efficient measures to regain their lost rights. To have conceded the validity of the Missouri-elected Legislature would have been to confirm the robber in the possession of his booty, and to admit that the pirate was the rightful owner of the ship he had captured. Acquiescence would have been surrender in advance, the giving up a campaign because the enemy had captured an outpost. This feeling found expression in the following extracts from a series of resolutions adopted by the first Free-State convention at Big Springs, and written by Governor Reeder:

"*Resolved,* That the body of men who for the past two months have been making laws for the people of our Territory, moved, counseled and dictated to by the demagogues of Missouri, are to us a foreign body, representing only the lawless invaders who elected them, and not the people of the Territory; . . . that we owe no allegiance or obedience to the tyrannical enactments of this spurious Legislature; . . . that we will resist them primarily by every peaceable and legal means in our power, and will resist them to a bloody issue as soon as we ascertain that peaceable remedies shall fail and forcible resistance shall furnish any reasonable prospect of success."

But there were grave practical difficulties in the way of carrying out the policy of repudiating the bogus legislature. Infamous as was its origin, it was still recognized as valid by the government at Washington. It was *de facto* exercising the powers and functions of a legislature. The necessities of a civil government of some sort were imminent and increas-

ing daily, and unless some more positive policy than that of mere negation were adopted, there was great danger that the people would finally succumb from the very inertia of the situation, and accept the Pro-Slavery government on the theory that any government is better than none. The leaders of the Free-State people saw this danger, and at once inaugurated the movement for a Constitutional convention. Undoubtedly this scheme originated in the fertile and sagacious brain of Charles Robinson, who at that time was by common consent the chief leader of the Free-State party. He had but recently returned from California, where an independent constitutional movement, without the sanction of an enabling act of Congress, had been successfully carried through to the admission of the State. He was firm and enthusiastic in the conviction that an independent movement in Kansas would meet with similar success. The situation at Washington was not without encouragement. The political revolution of 1854 had sent to the lower house of Congress a majority of "Anti-Nebraska" members thoroughly arrayed against the Pierce administration.

They would undoubtedly give to a Free-State constitution from Kansas a hearty reception. There were those, too, who indulged in the delusive hope that there still lingered in the bosom of the Northern Democracy sense enough to make them welcome any measure that promised an honorable and safe exit from the political quagmire into which they had been plunged by the fateful and ill-starred repeal of the Missouri compromise. The movement had in it, therefore, sufficient probabilities of success to make it much more than a forlorn hope in the struggle. And it was at once adopted with great unanimity for the Free-State party.

TOPEKA CONSTITUTION.

A convention was called to meet at Topeka on the 19th of September, 1855, to take measures to form a state constitution. At this convention an election was ordered to be held on the 9th of October following, for the choice of delegates to a constitutional convention. At the election forty-seven members were chosen, and the number of votes cast was 2,710.

The convention met at Topeka, October 23. The list of members included many of the prominent Free-State men in the Territory: Robinson, Lane, Conway, Parrott, C. K. Holliday, W. Y. Roberts, G. W. Smith, Judge Schuyler, Judge Wakefield, J. S. Emery, J. K. Goodin and others; while among the clerks, reporters, etc., were Redpath, Phillips, the two Speers, C. A. Foster, and S. F. Tappan, all of whom were then or afterward more or less prominent in Kansas affairs. James H. Lane was chosen President of the Convention, his opponents being W. Y. Roberts and J. A. Wakefield. Lane had made his appearance in Kansas only a few months before, but had already gone to the front as a Free-State leader. He had at first endeavored to organize a National Democratic party in the Territory, but, speedily recognizing that there was but the single issue of freedom or slavery involved in Kansas politics, accepted the logic of the situation, heartily embraced the Free-State cause, and never to the end of the struggle failed in his devotion to it. By the 11th of November the convention had finished its labors and submitted a constitution to the people, to be voted upon December 15 following. There was nothing remarkable about the constitution which they had framed. It followed in its main provisions the precedents of other State constitutions at that time. The boundaries of the State as defined in it were those of the Territory, the western limit being the eastern boundary of the Territory of Utah. The bill of rights simply provided that there should be no slavery nor involuntary servitude in the State, except as a punishment for crime. The elec-

tive franchise was confined to white males, and civilized Indians who had adopted the habits of white men. A motion was made in the convention to strike out the word "white," but it received only seven votes. The times were not yet ripe for so great a forward step, but the educating process had begun. The names of the seven men who thus anticipated the final fruits of a great movement, and had even then reached a moral and political attitude which the country at large was to reach only after a great war and the destruction of slavery, were Charles Robinson, R. H. Crosby, G. S. Hillyer, Amory Hunting, O. C. Brown, Richard Knight, and Philip C. Schuyler.

Another subject which caused some discussion, was the question of excluding free negroes from the State. This was finally settled by its submission to the people with the constitution as a separate question. Later-day critics have professed to find in this action cause for animadversion. It is easy after a lapse of thirty years—after the abolition of slavery and the enfranchisement of the negro—to find fault with our pioneer politicians and statesmen for not acting up to a higher standard. But it is well to remember that at the time we are speaking of, the negro was not only enslaved at the South, but ostracised over the greater part of the North.

Less than three years before, Anthony Burns had been dragged back to bondage from the shadow of Bunker Hill monument, and within sight of Faneuil Hall, and Boston had to submit to the outrage. Fugitive slaves were hunted with comparative impunity all over the North; free negroes at that time, and for ten years thereafter, were not allowed to ride with white people in the street cars in New York and Philadelphia, while nearly every Western state had laws excluding them from settlement within their bounds. The National Republican party had not yet been organized; the great religious bodies of the country were still wrangling over the question whether slavery were *per se* a sin or not, while the American Tract Society was carefully emasculating its publications lest they should give offense to Southern Slaveholders. It was hardly to be expected, therefore, that the handful of pioneers of the first year's settlement in Kansas—recruited largely from the western states—should at the first bound vault to the moral leadership of the whole country. Upon the vital, practical question of the hour, namely the making of Kansas a free state, they were eminently sound, and we can afford to look with leniency upon their comparative shortcomings, and their failure at the first glance to perceive the full bearings, moral and political, of the great contest on which they had entered. Especially is this so in view of their subsequent growth in grace, which was so rapid and radical that in less than three years thereafter they framed a constitution without the word "white" in it.

The Topeka Constitution was voted upon and adopted by the people December 15, 1855, and State officers under it were elected January 15, 1856. The legislature met March 4, organized, listened to an able message from Charles Robinson, the Governor-elect, elected James H. Lane and Andrew H. Reeder United States Senators, memorialized Congress for admission to the Union, and adjourned till July 4. The movement had already attracted wide attention, and the slave power was alarmed at it. Although every step had as yet been merely formal, and the necessity of admission to the Union by Congress, to give vital power to the Constitution and State Government, had been continually recognized and avowed, President Pierce, in a special message to Congress, January 24, stigmatized the movement as revolutionary and rebellious, and the *Atchison Squatter Sovereign* expressed the cheerful conviction that the only way to

correct the troubles that existed, was "to hang up to the nearest tree the very last traitor who had participated in the Topeka convention."

Notwithstanding all this, the constitution was sent to Congress, and presented to the Senate by Lewis Cass, of Michigan, and to the House of Representatives by Daniel Mace, of Indiana. Meanwhile the Pro-Slavery courts of the Territory began their infamous work of vexation and oppression, by finding indictments for treason against the prominent supporters of the constitution. June 17th the first National Republican convention was held in Philadelphia, and in its trumpet-toned resolutions declared that "Kansas should be immediately admitted as a State of the Union, with her present free constitution, as at once the most effectual way of securing to her citizens the enjoyment of the rights and privileges to which they are entitled, and of ending the civil strife now raging in that Territory." On the 25th of June Galusha A. Grow introduced a bill in the House of Representatives for the admission of Kansas, and the 3d of July the House passed it by a vote of 99 to 97. The next day—July 4th—Colonel Sumner, under special orders from President Pierce, with a force of United States dragoons, dispersed the Free-State Legislature at Topeka; an act of eternal infamy to all who participated in it. On the 8th of July, Senator Stephen A. Douglas reported a substitute for the House bill admitting Kansas into the Union. It authorized the people to frame a new constitution. Douglas's substitute passed the Senate the same day by a vote of 30 to 13, and thus the Topeka Constitution was rejected by Congress.

The movement, however, was not abandoned by the people of Kansas. Their eyes were now turned with the intensest anxiety to the great presidential campaign which was convulsing the country, and in which the freedom of Kansas was the overshadowing issue. From ten thousand platforms, and by twice ten thousand speakers and writers, all over the land, the Kansas question was now being discussed. The tide of immigration from the free states was already rising. The slave power blockaded the Missouri river, but the living stream of freemen hastening to the relief of their beleaguered brethren west of the great stream, flowed around the state of Missouri to the north, through Iowa and Nebraska, and spread out upon the plains and valleys of Kansas. The mighty North was already beginning to pour forth from her populous loins, not a horde of robbers and vandals to ravage and destroy some Italy of civilization, but a host of intelligent freemen bound to rescue the garden-spot of the American continent from the blasting and withering curse of human bondage.

It was already beginning to be perceived by those who had eyes to see, that a greater power than that of presidents and Congresses was about to intervene in the strife, and that go as the Presidential election might, the destiny of Kansas was virtually fixed. The special movement which had taken form in the Topeka Constitution and State Government might run its course and give place to something else, but the great end for which that movement had been inaugurated—the freedom of Kansas—would be achieved. And so it proved. The friends of free Kansas were defeated in the presidential election of 1856, and one of the most heartless, cold-blooded and treacherous of their enemies was elected president; but the people of the North had been so thoroughly aroused and informed by the campaign, that an emigration to Kansas of phenomenal proportions at once ensued. The Legislature under the Topeka Constitution met in January, 1857, memorialized Congress for the admission of the State, and took a recess to the second Tuesday in June. On the 9th of June it again met, and remained in session until June 13th. At this meeting Governor

Robinson read an elaborate message, and laws were passed for taking a census and apportioning the State; for a State election in August to fill vacancies; locating the Capital at Topeka; establishing the State University at Lawrence; and a joint resolution was passed asking Congress to admit the State under the Topeka Constitution. This meeting was held without molestation from any source. At the special election in August for filling vacancies, the constitution itself was again submitted to a popular vote, and received 7,257 votes to 34 against it. In October, 1857, the people for the first time obtained possession of the Territorial Legislature. As Reeder and Geary had done before them, Walker and Stanton now found themselves obliged by the enormities of the Pro-Slavery conspirators to side with the people. Their fidelity to justice was rewarded by dismissal from office; but the people could not be dislodged from the "coign of vantage" which the honorable conduct of these officers had enabled them to occupy. Their grasp upon the Territorial government was not to be loosened. January 5, 1858, the Legislature under the Topeka Constitution met at Topeka, organized, and listened to a message from Governor Robinson, in which he urged the keeping up of the State organization. On the 7th the Legislature adjourned to Lawrence, where the Territorial Legislature was then in session. There was a proposition at this time for the Territorial Legislature to abdicate and allow the State Government under the Topeka Constitution to go into actual operation, but in view of the hostile attitude of the Government at Washington, and the manifest risk of losing what had already been gained, the Territorial Legislature declined to enter upon the experiment, and the project was abandoned. The State Legislature soon adjourned. This was the end of the Topeka movement.

If the question be asked what useful purpose the Topeka constitutional movement subserved, the obvious answer is that it served as a nucleus, the rallying point, the bond of union of the Free-State party during the most trying and dangerous period of our Territorial history. Without it the Free-State forces must have drifted, been demoralized, and probably beaten. The prospects of success were sufficiently flattering to supplement devotion to the Free-State cause with the personal ambition of a large number of able men who would be called to official position under it. Lane and Reeder would be United States senators; M. W. Delahay, member of Congress; Robinson, Governor; W. Y. Roberts, Lieutenant Governor; P. C. Schuyler, Secretary of State; J. A. Wakefield, Treasurer; M. F. Conway, S. N. Latta and Morris Hunt, Judges of the Supreme Court; H. Miles Moore, Attorney General; G. A. Cutler, Auditor; John Speer, State Printer; S. B. Floyd, Clerk of the Supreme Court, and E. M. Thurston, Reporter of the Supreme Court. Among the members and officers of the Legislature were such active and influential men as Henry J. Adams, J. B. Abbott, *James Blood*,[1] John Hutchinson, Columbus Hornsby, M. C. Dickey, *J. M. Arthur*,[1] H. H. Williams, John Brown, jr., Abram Barry, Thomas J. Addis, A. Jamieson, Wm. Crosby, Adam Fisher, Asaph Allen, J. F. Cummings, T. A. Minard, Joel K. Goodin, Samuel F. Tappan, and C. H. Lovejoy.

These were the strong men of the Territory, representing every shade and phase of the Free-State sentiment, and capable of carrying the people with practical unanimity. During the memorable campaign of 1856 many of them championed the cause of free Kansas upon the stump in the Northern States, and did much to arouse public sentiment, and to send men and money to aid their brethren in the Territory during the fearful

[1] NOTE.—Messrs. Blood and Arthur were both members of the Wyandotte Convention.

trials of that eventful year. Preëminent among these were Governor Reeder and General Lane. Each of them had been reared in the Democratic party, and had risen to eminence in its councils. Each had gone to Kansas a Democrat, and had been forced by the infamies and outrages of the slave power to espouse the cause of the people against their oppressors. Governor Reeder had a very wide and favorable acquaintance in Democratic circles, and his speeches and letters produced a profound impression upon the country. Lane was in his element—a grand and glorious cause to champion; wrongs and outrages to expose and denounce; a suffering and down-trodden people to vindicate; the threatening, bullying, murdering slave power to anathematize and execrate. With such themes as these to talk about, and listening thousands hanging on his lips and cheering his words, Lane was one of the most magnetic, dramatic, imposing, rousing and crowd-swaying orators that this country has ever produced.

The year 1856 was the critical year for Kansas. During its trying months the slave power, wielding the force of the United States government, was most rampant, proscriptive and murderous. Had not the friends of freedom, both in Kansas and out of it, put forth the most active and sagacious efforts, the cause would have been lost. That critical period past, the magnificent inflowing wave of immigration of 1857 made the preponderance of numbers on the Free-State side so great that the era of violence and bloodshed—except in a few sporadic cases—closed.

The Topeka constitutional movement held the people together through a stormy and trying period. When the occasion of its usefulness had passed, they turned to other plans suggested by the changing phases of the contest. In the eloquent words of a historical writer, who, though a stranger to Kansas, has correctly appreciated the spirit of her people, "It had for three years been the shrine at which the whole Free-State party had worshipped, and the citadel of liberty that had never been surrendered to the foe. No truer nor braver band of freemen ever fought the desperate fight for freedom against such appalling odds as did those who defended it. Their names will go down the ages in imperishable renown as the unconquerable defenders of free institutions, under the aegis of the Topeka Constitution."

THE LEAVENWORTH CONSTITUTION.

The Leavenworth constitutional movement originated with the first Free-State Legislature, elected in October, 1857. There had been no general demand for it on the part of the people, although the hostile attitude of both branches of Congress made the acceptance of the Topeka Constitution hopeless. Indeed, with the seizure of the Territorial Legislature by the Free-State party, it was generally felt that the Topeka constitutional movement had run its course, a feeling which found expression in the refusal, we have just noted, of the Territorial Legislature to abdicate in favor of the Topeka State government. Probably a large majority of the people, could they have been assured of peace and quiet, would have been quite content to live under the Territorial form of government for an indefinite period, at least until the growth of the community in population and wealth had made it better able to sustain the burdens of a State government. But events moved rapidly and ominously in those days. The session of the Territorial Legislature would expire by limitation on the 12th day of February, 1858. Ten days before that date President Buchanan sent the Lecompton Constitution to Congress with a special message urging its acceptance. In that message he bitterly maligned the

Free-State people, and announced the monstrous proposition that, by virtue of the United States Constitution, Kansas was at that moment as much a slave state as South Carolina or Georgia. The acceptance of that constitution seemed imminent in both houses of Congress. This was the situation February 2.

It was grave enough to excite the most serious apprehensions of the Legislature. The admission of the State under the Lecompton Constitution would undoubtedly lead to the most disastrous consequences. The temper of the people was such that they would not tolerate the existence of any State government under that constitution. This would lead to Federal interference and probably open war. Under these circumstances the Free-State people would be at a great disadvantage without a State organization. The most speedy method of improving the situation seemed to be to at once call a new convention, frame a constitution, elect officers under it, and have a State organization around which to rally.

Accordingly an act was passed three days before the expiration of the session, providing for the election of delegates to a constitutional convention. The election was to be held March 9, and the convention to assemble March 23 at Minneola, the newly-established capital of the Territory. Governor Denver, whose sympathies were not with the Free-State people or cause, attempted to thwart the movement by the pretense, or claim, that the bill had not been properly passed; but the people of Kansas in those days paid but little attention to the opinions of Federal governors against any action they had determined on, and went ahead with the movement uninfluenced by Denver's opposition. The election was held March 9; the convention assembled at Minneola March 23, adjourned to Leavenworth March 24, reconvened at Leavenworth March 25, framed a constitution, finished its labors and adjourned April 3. A State convention to nominate officers under the constitution was held at Topeka April 28, and the constitution was adopted and officers elected under it May 18. Before this latter date, however, the great contest in Congress over the admission of the State under the Lecompton Constitution, had come to an end by the passage of the English bill, which referred that constitution back to the people of Kansas to be voted upon the next August, and provided that if the vote should be against the constitution, delegates to a new convention should not be chosen until the Territory had a population equal to the ratio of a representative in Congress, or 94,560. Thus the great crisis had passed and further prosecution of the Leavenworth movement was unnecessary and soon abandoned. It had come into being suddenly, as a strategic necessity in the great fight which the Free-State people were waging, and when the occasion for it had passed, it, too, passed away.

THE LECOMPTON CONSTITUTION.

The Lecompton Constitution has an immortality of infamy. It was the child of fraud, and finally died smitten by the mailed hands of an indignant and outraged people. It is remembered just as any other great crime against humanity lives in the execrating remembrance of mankind. From first to last the movement was tainted with fraud. It began in the old bogus, Missouri-elected Legislature of 1855, which professed to submit the question of calling a convention to an election to be held in October, 1856. No Free-State men voted at that election. The bogus Legislature at its second session, begun in January, 1857, passed an act providing for the taking of a census and the election of delegates to frame a constitution. The delegates were to assemble in Lecompton the first Monday in Septem-

ber, 1857. The law was cunningly framed to exclude the spring immigration from voting, as no person could vote who arrived later than the 15th of March. All the preliminary proceedings were placed in the hands of Pro-Slavery officials, and no provision was made for submitting the constitution to a vote of the people. Governor Geary protested against these provisions, and especially demanded the submission of the constitution. The leaders refused, and said that to submit it "would defeat the only object of the act, which was to secure, beyond any possibility of failure, the Territory of Kansas to the South as a slave State." Geary then vetoed the bill, and the Legislature promptly passed it over his veto. The pretended census of voters and of population, upon which the apportionment of delegates was to be made, was completed during the month of April. In nineteen of the thirty-four counties of the Territory, no census whatever was taken. From every county bordering on Missouri, and from every Pro-Slavery county, returns were made. The disfranchised counties were mainly occupied by Free-State settlers. The object of this partial and unfair census was apparent. It was to put the convention beyond a peradventure in the hands of the Pro-Slavery men.

A recent writer on Kansas affairs has endeavored to shoulder a portion of the odium of this infamous census upon the Free-State party. After stating that "apportionment of delegates depended on population, but nobody could vote whose name did not appear on the registry lists; and that in only sixteen of the thirty-four organized counties was there any registration," he adds: "For this condition of things the Pro-Slavery party was not wholly responsible. Free-State men perplexed the enumeration by embarrassments of omission and commission, and were not ill-pleased at the starved and skeleton returns." It is difficult to see why the Free-State men should be held responsible for something with which they had absolutely nothing to do. The act calling the convention intrusted the taking of the census to the sheriffs of the various counties, and the returns were to be made to the probate judges for inspection and revision, and the corrected lists returned to the Governor, who was to make the apportionment of the delegates. Every sheriff and probate judge, as well as every other county officer in the Territory, was an appointee of the bogus Legislature and a Pro-Slavery man. There were no Free-State officers. There had been no election of county officers by the people, and would be none until long after the delegates to the Constitutional Convention had been chosen. No Free-State man in the Territory had any authority or legal power to add a single name to the census or the registry. How they could "perplex an enumeration by embarrassments of commission and omission" when there was absolutely nothing for them either to commit or to omit, passes comprehension. The "starved and skelton returns" were no particular pleasure to them, except as they foreboded, or ought to have foreboded, the downfall of the infamous plot to make Kansas a slave State. Secretary Stanton afterwards avowed that had he known at the time the full extent of the scoundrelism of that census and registry he would have refused to make an apportionment under it, and suffered the whole movement to fail; and the Free-State men, knowing what Stanton did not know, may have rejoiced to see the Lecompton conspirators piling up infamy upon infamy in their mad course, and thus making more certain their final failure.

Stanton made the apportionment on the census as returned, assigning, of course, no delegates to the nineteen disfranchised counties. At this point the leading Free-State men of the Territory united in a letter to

Stanton, offering to "overlook the past," and go into the election for delegates, provided a new and honest census should be taken, the delegates apportioned on that, and the Free-State men given an equal representation with the Pro-Slavery men on the boards of election judges. Stanton replied that he had no power to do so. The Free-State party thereupon refused to have anything to do with the election. The election took place June 15, and of course none but the Pro-Slavery delegates were chosen. The total vote cast was only 2,071, which was probably very nearly the actual strength of the Pro-Slavery faction in the Territory. The total population by this time must have exceeded 50,000.

On the 7th of September the convention assembled at Lecompton, and organized on the 8th, choosing as its president, John Calhoun, Surveyor General of the Territory. All eyes were now turned to the election to be held October 5, for members of the Territorial Legislature in which the two parties would, for the first time, measure strength at the polls. The convention therefore adjourned without further action, until the 19th of October. The election of October 5 took place, and resulted in a sweeping triumph of the Free-State party. The exposure of the enormous frauds perpetrated at Oxford and in McGee county, whereby the slave power had made a last desperate venture to hold possession of the Territorial Legislature, followed. These frauds were no more glaring and outrageous, and were less violent, than those of March 30, 1855, by which the first Territorial Legislature had been seized, and which the Administration and the slave power had claimed were the very perfection of squatter sovereignty. They were perpetrated for the same purpose and by the same men. The administration at Washington evidently expected Governor Walker and Secretary Stanton to wink at the wholesale forgery and keep the Pro-Slavery faction in control of the Legislature. But these officials had come too closely in contact with the people, had made too many promises of a fair and honest election, and were too thoroughly disgusted with the huge sham and imposture of the whole business, to connive at it. They accordingly threw out the forged returns, and gave the Legislature over into the hands of the people. Meanwhile the intelligence of these new Pro-Slavery frauds had spread, and aroused the people to a high pitch of indignation. The Free-State men felt not only strong in the justice of their cause, but in numbers and physical strength. They felt solemnly called upon to clean out the entire Lecompton gang. A Free-State mass meeting was called to meet at Lecompton on the 19th of October, the very day to which the Lecompton Constitutional Convention had adjourned from its session in September. The air was full of rumors, threats and portents. When the day came a great crowd assembled. Philip C. Schuyler was chosen president, and Richard Realf and O. E. Learnard Secretaries. Lane was there in all his glory. Nothing suited him better than an excited crowd and an exciting occasion. His speech was full of a noble enthusiasm for the Free-State cause and of terrific denunciation of the frauds and villainies that had characterized the Pro-Slavery programme. Resolutions were passed denouncing the frauds at the recent election, declaring that the convention about to assemble in no sense whatever represented the people and must adjourn *sine die*. A committee, with Lane at the head, was appointed to call upon the members of the convention, and convey to them the mandate of the people. The result was that for four days the members sneaked around Lecompton in the brush, afraid to assemble, and a quorum could not be obtained. At last Governor Walker sent over to Fort Leavenworth for a body of United States troops

with a section of artillery, and with their protection a quorum was got together and the convention went on with its predestined business.

Thus surrounded by United States troops, and protected from the assaults of an indignant and outraged people, by United States cannon, the Lecompton convention proceeded to frame the Lecompton Constitution. All the glory had now departed from the Pro-Slavery movement. It existed only in force. Had the United States troops been withdrawn, the Lecompton convention would have fled the Territory within an hour. However, its members, assured of protection, pushed straight ahead with their work. Their inspiration came not from Kansas, but from Washington. The slave power had determined to make Kansas a slave state at whatever cost, and Mr. Buchanan was its willing and conscious instrument. The fellows at Lecompton were but puppets who danced as their masters pulled the wires. The constitution was soon framed. Its substance deserves notice only as its provisions indicate the high-water mark of Pro-Slavery fanaticism in this country. Its preamble asserts that the State to be created by it is a free, independent and sovereign State. A whole article is devoted to slavery. The right of property is declared to be before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same and as inviolable as the right of the owner of any property whatever. The elective franchise is confined to "male citizens" of the United States, apparently on the theory that colored men could not be citizens of the United States. All civil officers of the State are required to use due diligence to apprehend and deliver up fugitive slaves. The bill of rights asserts that "all free-men when they form a social compact are equal in rights"; also that no "freeman" shall be deprived of life, liberty or property but by the judgment of his peers or the law of the land. In the same bill of rights it is provided that "free negroes shall not be permitted to live in this State under any circumstances." In the section providing for revisions of the constitution, the saving clause is inserted that "no alteration shall be made to affect the rights of property in the ownership of slaves."

The constitution framed, the question arose in the minds of the convention: What shall we do with it? The document was intensely Pro-Slavery; the people for whom it was ostensibly made were intensely Anti-Slavery. To submit it to an honest vote was to see the whole movement collapse like a soap bubble in the air. To refuse to submit it was to violate the pledges given before their election by Calhoun and many other members of the convention, to stultify the express promises of the administration through Governor Walker, and to hazard its rejection by Congress. In this dilemma a scheme for a sort of bogus submission was hit upon, or imported ready made from Washington. Apparently, and on its face, the constitution was submitted to the white male inhabitants "for approval or disapproval," but in reality nothing but the question of slavery was submitted, and in fact it was doubtful whether even that was meant to be fairly and honestly submitted. The form of vote was, "Constitution with Slavery," and "Constitution with no Slavery." In either form the vote was for the constitution; but the juggle in the pretended submission of the slavery question was seen, when the provision of the latter part of the section was read, to this effect: That in the event it should appear that a majority of the legal votes had been cast for the "Constitution with no Slavery," "then the article providing for slavery shall be stricken from the constitution, and slavery shall no longer exist in the State of Kansas, except that the right of property in slaves now in the Territory shall in no manner be interfered with." But what was the right of property in the

slaves then in the Territory? As defined by the constitution itself, in the words we have already quoted, it was the "right of the owner of a slave to such slave, and its increase." This right was "in no manner to be interfered with." The State was therefore to have remained a slave State so long as the slaves then living in Kansas, or any of their descendants ("increase") should exist. It was also provided—apparently with the intention of excluding the Free-State men from voting—that at the election on the constitution each voter should be required to take an oath to support the constitution, under the penalties of perjury under the Territorial laws. The precaution, however, was unnecessary, as the Free-State people with entire unanimity refused to take part in the election. Two elections were provided for by the convention—the one just alluded to, on the 21st of December, and the other on the 4th of January following, for the election of State officers under the constitution.

The convention adjourned on the 7th day of November. In its action it had violated every one of the solemn pledges made in its behalf by Governor Walker, and according to his repeated statement, made, too, on the authority of President Buchanan himself, that the people should have a free and fair vote upon the constitution. It was evident that the crowning outrage of a long course of villainy was about to be attempted. The Territory flamed with excitement. Public meetings were held in every city, village, and hamlet. The pressure to put the State Government under the Topeka Constitution in immediate operation, was immense. A convention was held in Topeka, presided over by Col. C. K. Holliday, at which resolutions were passed, requesting Governor Robinson to at once call together the Free-State Legislature. A vigilance committee was appointed. A few days afterwards a large mass convention was held in Leavenworth, at which Judge Latta presided, and which formally requested Acting Governor Stanton to call the recently-elected Territorial Legislature together in special session, and which, on motion of General Lane, asserted that in case Acting Governor Stanton should decline to do so, no other course would be open to the people but to put the Topeka government in motion, and pledging themselves to adopt that course, and stand or fall by it. A great delegate convention of the whole Territory had been called, and was about to assemble at Lawrence. Finally, a petition was presented to Mr. Stanton, signed by a majority of the members of the Legislature, and accompanied by a letter signed by Robinson, Lane, and many other prominent Free-State men, requesting him to call the Legislature together as the only means of averting violence and bloodshed. The crisis was imminent. To comply, as Governor Stanton well knew, meant a final break with the malevolent, unscrupulous and vindictive slave power at Washington. To refuse meant tumult, convulsion, irreparable wrong, and the torch-light of civil war at home in Kansas. But emergencies are the occasions which reveal great men, and Frederick P. Stanton was a great man. He called the Legislature. For this brave, manly, and statesman-like act, he was summarily dismissed from office by the President. Before he could be removed, however, he had time to meet the Legislature, give them his reasons for calling them together, and consult with them as to the proper course to pursue. The Legislature remained in session only a few days. Its most important work was to provide by law for the submission of the Lecompton Constitution to a vote of the people on the 4th of January following—the same day that had been fixed by the Lecompton Convention for the election of State officers under the Lecompton Constitution. It was of course known that the constitution would be voted down by an overwhelming majority of the people, and it was hoped,

vainly, as the sequel showed, that the administration at Washington would not have the colossal stupidity and wickedness to champion a constitution which, at a fair and legal election, held by the regular authorized and recognized Territorial authorities, had been demonstrated to be not the choice of the people. But the capacity of the Buchanan administration—that decaying dynasty of the slave power—for pure, unadulterated meanness, and high-handed, outrageous villainy, had at that date been vastly underestimated.

The election of December 21 was a one-sided affair, the Free-State people refusing to take part in it. The total vote was 6,143 for the Constitution with slavery, and 569 for the Constitution with no slavery. Of this vote, over 3,000 were subsequently shown to be purely fraudulent. In Kickapoo the Cincinnati directory was boldly copied to the extent of nearly a thousand names. In Oxford the fraud rivaled that of the previous October election, which Walker and Stanton had kicked out. No motive could be assigned for these frauds, except it was to swell the total vote into something like respectable dimensions for effect at Washington.

The elections of January 4, 1858, which followed, presented a curious phase of complication. First, there was an election for State officers under the Lecompton Constitution, and under officers appointed by the president of the convention; and, secondly, there was on the same day, an election upon the Lecompton Constitution, under the regular Territorial authorities, provided for by the Legislature at its special session. This latter election the Pro-Slavery party ignored. A large vote, however, was cast, resulting in: For the Constitution without slavery, 23; for the Constitution with slavery, 138; against the Constitution, 10,226.

The Free-State body, as a party, had resolved not to commit themselves by voting for State officers under the Lecompton Constitution. An independent ticket, however, had been nominated in opposition to the Pro-Slavery ticket, and was supported by a portion of the Free-State people. The total vote on Governor, as returned for this election, and now on record in the secretary of state's office, gives for the Pro-Slavery ticket 4,375, and for the Free-State ticket 3,966. This, however, was only a partial return. The vote as reported to the Legislature by C. W. Babcock and George W. Deitzler was for Smith, Free-State, 6,875; for Marshall, Pro-Slavery, 6,545; a Free-State majority of 330. Of the Pro-Slavery vote they reported as fraudulent from Oxford, Shawnee, Kickapoo and other places 3,000 votes. They also reported the election of a majority of Free-State members in each branch of the Legislature. The returns, however, of the election were made to Mr. Calhoun, President of the Lecompton Convention, who was authorized to grant certificates of election. It was generally believed that in case the State was admitted under the Lecompton Constitution, Calhoun would give certificates to the Pro-Slavery candidates for State officers and to a majority of Pro-Slavery candidates for the Legislature.

The contest now drifted from Kansas to Washington, where the slave power, with President Buchanan at its head, espoused the Lecompton Constitution and endeavored to force the admission of the State with it. But the incessant protesting of the Free-State men had produced a visible effect. Moderate men in the Democratic party began to halt. The Northern constituencies were muttering with rage. Reeder, Geary, Walker, Stanton—all Democratic appointees—were knifing the infamous fraud at every opportunity. The great Democratic senator from Illinois, Stephen A. Douglas, who had championed the repeal of the Missouri compromise, and had fought the battle of the South by the light of his own burning effigies,

all over his own state, now threw the weight of his magnificent powers into the scale against the Lecompton fraud, and in some small measure atoned for his past career, and the injuries he had done to Kansas, by fighting one splendid and masterly fight in her behalf. Meanwhile the Free-State men in Kansas were not idle. The Legislature fully investigated the frauds of the late elections, took a census of the hamlets like Oxford, that had been returning Pro-Slavery votes by the thousand, and showed that it had less than fifty voters all told; discovered the fraudulent Delaware Crossing returns concealed under a wood-pile in Lecompton; began making arrests of the guilty parties, and in short, made it so hot for the rascals that the most of them fled from the Territory never to return. But blind, obstinate, unreasoning, the slave power in Congress pressed relentlessly onward. They carried the Lecompton Constitution through the Senate by a vote of 33 to 25, and pressed for victory in the House. Here, however, the storm raged in vain. The House defeated the Senate bill, and adopted a substitute sending the constitution back to Kansas to be again voted on. The Senate rejected the substitute, and voted for a committee of conference. The committee of conference reported the English bill. On April 3d it passed both houses, and on the 4th of May, 1858, the President signed it. The essence of this bill was that the State was admitted under the Lecompton Constitution, but not with the ordinance of that constitution, but with a special and exceedingly liberal grant of public lands, made by the bill itself, subject to the condition of a popular vote to be hereafter taken, at which the ballots were to read "For proposition of Congress and admission," and "Against proposition of Congress and admission." This virtually finished the business, for nobody expected the people in their then temper of mind to vote for admission under the Lecompton Constitution, even though the bribe to do it had rivaled the Satanic offer to our Saviour, of all the kingdoms of the earth. The vote took place August 2, 1858, and resulted as follows: For the proposition, 1,788; against the proposition, 11,300; majority against it, 9,512.

Thus the great Lecompton struggle was ended, and thence forward the Kansas ship of State sailed on comparatively unruffled seas toward the final haven of admission into the Union.

APPENDIX F.

BIBLIOGRAPHY.

The material for the study of the four constitutions of Kansas and the conditions under which they were framed is very extensive.

It has been considered helpful to indicate where such material may be found, and to arrange it under the following headings:

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B. Debates and Documents.
    1. National.
    2. Territorial.
C. Kansas Histories.
    1. Contemporaneous.
    2. Of Later Date.
D. General Articles.
E. The Topeka Convention and Constitution.
F. The Lecompton Convention and Constitution.
G. The Leavenworth Convention and Constitution.
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Woodson, Daniel. Apr. 17 to June 23, 1855; secretary and acting governor, Aug. 16 to Sep. 7, 1855; June 24 to July 7, 1856; Aug. 18 to Sep. 9, 1856; Mar. 12 to Apr. 16, 1857. d. Claremore, I. T., Oct. 5, 1894.

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Geary, John White. Lecompton. Sep. 9, 1856, to Mar. 12, 1857. d. Harrisburg, Pa., Feb. 8, 1873.

Stanton, Frederick P. Lecompton. Apr. 16 to May 27, 1857; secretary and acting governor, Nov. 16 to Dec. 21, 1857. d. near Ocala, Fla., June 4, 1894.

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Denver, James W. Lecompton. Dec. 21, 1857, to Oct. 10, 1858; secretary and acting governor until May 12, 1858, when he was appointed governor. Was out of the territory July 3-30, 1858. d. Washington, D. C., Aug 9, 1892.

Walsh, Hugh Sleight. Lecompton. July 3-30, 1858; Oct. 10 to Dec. 18, 1858; Aug. 1 to Sep. 15, 1859; Apr. 15 to June 16, 1860. d. near Grantville, Jefferson county, Kan., Apr. 23, 1877.

Medary, Samuel. Lecompton. Dec. 18, 1858, to Aug. 1, 1859; Sep. 15, 1859, to Apr. 15, 1860; June 16 to Sep. 11, 1860; Nov. 25 to Dec. 17, 1860. d. Columbus, Ohio, Nov. 7, 1864.

Beebe, George M. Lecompton. Sep. 11 to Nov. 25, 1860; Dec. 17, 1860, to Feb. 9, 1861. Secretary and acting governor.
(Taken from v. 8, Kan. Hist. Col., p. 508.)

2. Biographical Data Concerning Kansas Territorial Governors; v. 6, Kan. Hist. Col., p. 409, 410.

3. CONNELLEY, WM. E.—
In "Kansas Territorial Governors" (Topeka, 1900), 20th Century Classics.

4. ROBINSON, CHARLES—
"Recollections and Impressions of Our Territorial Governors," v. 1 and 2, Kan. Hist. Col., p. 115.

5. REEDER, ANDREW H.—
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Burgess' Middle Period, pp. 416-425.
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5 Schouler, pp. 327-331, 348.

6. WOODSON, DANIEL—
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8. GEARY, JOHN W.—
John H. Gibson's "Geary and Kansas" (1857).
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9. STANTON, FREDERICK P.—
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10. DENVER, JAMES W.—
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13. MEDARY, SAMUEL—
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b. DELEGATES TO WYANDOTTE CONVENTION—

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4. HOFFMAN, SAMUEL E.—
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5. KINGMAN, SAMUEL A.—
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7. THACHER, SOLON O.—
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Fourth	Brown	1
Fifth	Nemaha	1
Sixth	Marshall and Washington (2)	1
Seventh	Jefferson	1
Eighth	Jackson	1
Ninth	Riley	1
Tenth	Pottawatomie	1
Eleventh	Johnson	2
Twelfth	Douglas	7
Thirteenth	Shawnee	3
Fourteenth	Waubonsa, Davis, Richardson, Dickinson and Clay (5)	1
Fifteenth	Lykins	2
Sixteenth	Franklin	1
Seventeenth	Osage, Breckenridge and Wise (3)	2
Eighteenth	Linn	2
Nineteenth	Anderson	1
Twentieth	Coffey and Woodson (2)	2

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Butler (see Madison).
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Clay (see Waubonsa).
Coffey and one other; Hoffman, S. E.
Davis (See Waubonsa).
Dickinson (See Waubonsa).
Doniphan; Stiarwalt, J., and four others.
Dorn (see Bourbon).
Douglas; Thacher, S. O., and six others.
Franklin; Hanway, J.
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Jefferson; McClellan, C. B.
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